

April 21, 2009



TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Nancy Floreen

Councilmember George Leventhal

Councilmember Valerie Ervin

Councilmember Michael Knapp

Councilmember Duchy Trachtenberg



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1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody, and welcome to a meeting of the County Council. We're all  
3 glad that you're here this morning, and we're going to start with an invocation from  
4 Reverend Ginger Luke of the River Road Unitarian Universalist Church of Bethesda.  
5 Please stand for the invocation.

6  
7 GINGER LUKE:

8 In the name of all that is sacred and holy, let us pray. May you, the leaders before us this  
9 April morning, be graced with wisdom, compassion, and vision. May you hear the cries for  
10 justice. May you see the needs of the earth. May your hearts be open to our children and  
11 the less fortunate. May you receive our questions, our gratitude, and our support, and by  
12 your decisions, may our world become a better place. Amen.

13  
14 COUNCIL PRESIDENT ANDREWS:

15 Thank you, Reverend Luke. All right. We're going to go a little bit out of order, and  
16 actually, we are going to go next with a presentation to the Wootton ice hockey team for  
17 winning the state championship, and I am going to do the honors on that, and then we'll  
18 move on to a presentation that will be provided by Council Vice President Berliner, and  
19 then the first presentation that was scheduled will be the third one we do this morning. So  
20 I'll ask the members and coaches of the Wootton ice hockey team to join me up at the  
21 front. One of the great pleasures of serving on the County Council, as I've often said, is  
22 recognizing the outstanding accomplishments of our-- of our students and other  
23 individuals in our community, and today, it's my honor to recognize the success of the  
24 Wootton ice hockey team, which has won their second championship in a row.  
25 Congratulations to that-- no small feat. And I have-- let's give them a round. Principal  
26 Michael Doran and assistant coach John Burkinshaw are with us, and what I'm going to  
27 do is read the proclamation on behalf of the Council. I see we have some proud parents, if  
28 I'm not mistaken, in the audience, and others. And then I'll ask representatives of the team  
29 to say a few words. "Whereas, winning a championship for the first time is a journey that  
30 tests the utmost of skills and emotions of a team, and the qualities needed to defend a title  
31 are hard to encumber, but that fortitude was displayed by the 2008-2009 Wootton High  
32 School ice hockey team throughout the season on its way to a second straight Maryland  
33 Scholastic Hockey League public school championship. And whereas, the Patriots, before  
34 a standing-room-only crowd at the Gardens Ice House in Laurel, became the first repeat  
35 champion since the MSHL went to its current format in the 2003-2004 season, by  
36 defeating Linganore of Frederick County 5-2 in the league championship game, as senior  
37 Jonathan Cohen-- Jonathan? Are you here? --rose to the occasion with a hat trick--wow.  
38 And whereas, the Patriots, led by 15-year coach Dave Evans and assistant coaches John  
39 Burkinshaw, Dave Fepelstein, Brendan Franks, and Todd Scriber, finished 16-1 overall  
40 and unbeaten in the regular season as they continue to build a program that has lost only  
41 one regular-season game over the past two seasons. And whereas, the entire

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1 Washington metropolitan area scholastic ice hockey community is now aware of the level  
2 of hockey being played in Montgomery County, as Coach Evans was named The  
3 Washington "Post" All-Met and the Gazette newspaper's Coach of the Year, senior  
4 forward Dylan Skarupa was named to the All Met first team and honored as the Gazette's  
5 Player of the Year, and sophomore defenseman Josh Bretner was chosen to the  
6 Gazette's All County second team. And whereas, according to The Washington "Post,"  
7 "Wootton Parkway in Rockville is now the address of the top ranked high school ice  
8 hockey team in the Washington metropolitan area," now, therefore, be it resolved that the  
9 County Council of Montgomery County, Maryland, hereby proclaims congratulations and  
10 salutes the Wootton High School ice hockey team, and be it further resolved that the  
11 Montgomery County Council joins with the entire Wootton High School community in  
12 recognizing this wonderful achievement of bringing home another championship banner to  
13 Montgomery County." It's presented today, signed by me on behalf of the County Council.  
14 And I'd like to invite our School Board members to come up here and join us. School  
15 Board President Shirley Brandman and School Board Vice President Pat O'Neill are here,  
16 and they're very proud, as well, of the accomplishments of all of our students, including  
17 our great student-athletes. So congratulations to Wootton. Why don't we--I think--I think  
18 assistant coach John Burkinshaw is with us. I was talking with him a little bit earlier, and  
19 why don't I hand this to you and ask you to make a few comments? And then perhaps we  
20 could just have everybody just--maybe you could just introduce, very quickly, who the  
21 players are, and then perhaps one of the players could make some comments.

22  
23 JOHN BURKINSHAW:

24 OK. On behalf of the Wootton ice hockey club, I'd like to thank the Council of Montgomery  
25 County for this proclamation. We live in one of the finest counties in the country, for sure,  
26 and the School Board, and you guys go to one of the best schools in the country, for sure,  
27 and I'll go ahead and introduce Dylan Skarupa. Say a few words, OK?

28  
29 COUNCIL PRESIDENT ANDREWS:

30 Dylan, maybe you can--maybe you can introduce the team. How's that be? OK?

31  
32 JOHN BURKINSHAW:

33 Yeah.

34  
35 COUNCIL PRESIDENT ANDREWS:

36 All right. Dylan.

37  
38 DYLAN SKARUPA:

39 All right. Well, I guess I'll start from over here. If everybody just wants to say their name  
40 and, I guess, their grade.

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1 COUNCIL PRESIDENT ANDREWS:

2 Actually, come up to the mike real quick, unless you want-- here you go. Just one after the  
3 other. Say your name and...

4  
5 STEPHEN JACKSON:

6 Stephen Jackson, sophomore, number 15.

7  
8 COUNCIL PRESIDENT ANDREWS:

9 All right.

10  
11 ALEX ROSENFELD:

12 Alex Rosenfeld. I'm a junior.

13  
14 JONAH GUITON:

15 I'm Jonah Guiton. I'm a junior.

16  
17 SAM WEINTRAUB:

18 I'm Sam Weintraub. I'm a junior.

19  
20 P.J. HALL:

21 I'm P.J. Hall. I'm a sophomore.

22  
23 NEOFYTOS PANAGOS:

24 I'm Neofytos Panagos. I'm a junior.

25  
26 STEVEN RUBIN:

27 I'm Steven Rubin. I'm a junior.

28  
29 CARL SPERLING:

30 I'm Carl Sperling. I'm also a junior.

31  
32 CHRIS HOGAN:

33 Chris Hogan. I'm a senior.

34  
35 ANDREW STEIN:

36 I'm Andrew Stein. I'm a senior.

37  
38 ANTHONY CORINI:

39 I'm Anthony Corini. I'm a freshman.

40  
41 ALEX MARKENSON:



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1 Alex Markenson. I'm a junior.

2  
3 ALEX GREENFEST:

4 Alex Greenfest, I'm a junior.

5  
6 RYAN STREGER:

7 Ryan Streger, sophomore.

8  
9 AMY LIPTON:

10 Amy Lipton. I'm a senior.

11  
12 COUNCIL PRESIDENT ANDREWS:

13 OK. And, Dylan, you just want to--

14  
15 DYLAN SKARUPA:

16 I'm Dylan Skarupa. I'm a senior, and just another great year. I guess I'd like to thank the  
17 coaches for all their commitment, the parents for everything they do, and the County and  
18 the Board for really making all this possible.

19  
20 COUNCIL PRESIDENT ANDREWS:

21 Very good. As I said, this is the tough part now, and that's to get everybody in the same  
22 picture so that we can actually see everybody. So we need a couple rows here. We'll  
23 move this over a little bit. You guys have done this before. Come on up, come on up.

24  
25 PHOTOGRAPHER:

26 Make a couple rows. Make sure I can see you all.

27  
28 UNKNOWN SPEAKER:

29 Thanks, Dylan. You did a great job.

30  
31 COUNCIL PRESIDENT ANDREWS:

32 Congratulations again to the Wootton ice hockey team and all of the people that made this  
33 season happen. Best of luck as you go on to your next season, and for those seniors, best  
34 wishes as you pursue your scholastic and-- and athletic endeavors. Our next presentation  
35 will be a proclamation in recognition of Scott Herman, Cabin John Middle School, recipient  
36 of the Maryland Music Educator of the Year award, and Council Vice President Roger  
37 Berliner is going to do the honors.

38  
39 COUNCIL VICE PRESIDENT BERLINER:

40 Good morning to you. It is my pleasure to welcome Mr. Scott Herman, and if I could, the  
41 principal of Cabin John Middle School--I believe Dr. Smith--and the assistant principal, Mr.



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1 Everly. Good. And, Shirley and Pat, you know we need you. I'm glad you are here. I'm  
2 sure you are. It is a particular pleasure for me to recognize what teachers throughout the  
3 state have already recognized, which is the excellence of Scott Herman, who is the  
4 instrumental teacher at Cabin John Middle School. And this award is given to him based  
5 on the votes of his peers, so this is not lightly done, and it reflects the excellence that he  
6 has achieved in his profession and how it has touched so many of our children, to be  
7 everything they can be in terms of playing their instrument. I only wish you had been my  
8 boy's teacher, because I promise you, he could have stood a little--I was a piano player,  
9 and I could have used a little of your help, too. But it is so important, the work you do. It is  
10 so critical that we honor the arts, the music that you do, because we need more of that for  
11 our children, quite frankly, and I know that both Shirley and Pat share my view that to the  
12 extent to which we can encourage more music, more art, we need to do that for our  
13 children, because all the studies indicate that coming through that way in our brain  
14 actually makes us smarter and learn better. So it's not like we have this choice between  
15 art and music on the one hand and academics on the other. It is, we need both, and when  
16 we have this level of excellence, we are so grateful to you for your work. So let me read  
17 this proclamation to you, sir. "The County Council of Montgomery County, Maryland.  
18 Whereas, Scott Herman, an instrumental music teacher at Cabin John Middle School for  
19 almost two decades, has been named Outstanding Music Teacher of the Year by the  
20 Maryland Music Educators Association; and whereas, the Maryland Music Educators  
21 Association is a professional association for music--for school music teachers of Maryland  
22 with a mission to provide professional development of music teachers, opportunities for  
23 excellence for music students and teachers, and to serve as an advocate for music  
24 education in schools; whereas, the award winners are judged on several criteria, including  
25 outstanding"--apparently I need to see this-- "outstanding contributions"-- Excuse me.  
26 "Outstanding contribution to the community and the state through music, serving as a role  
27 model for students, building confidence and self-esteem among students, and  
28 demonstrating a performance above and beyond the call of duty; and whereas, Scott  
29 Herman was nominated by his colleagues, community members, parents, and students,  
30 and is estimated to inspire nearly 300 students a day to become better musicians; and  
31 whereas, in addition to teaching classes comprised of string and band students in grades  
32 6-8, he also is instrumental in the success of the Maryland Classic Youth Orchestras, the  
33 resident youth orchestras based at the Music Center at Strathmore; and whereas, Scott  
34 Herman exemplifies how teachers who are committed to academic excellence can open  
35 the doors of success for the young people of Montgomery County, now, therefore, be it  
36 resolved that the County Council of Montgomery County, Maryland, hereby proclaims  
37 congratulations to Scott Herman for being named Outstanding Music Teacher of the Year.  
38 Signed on this 21st day of April in the year 2009 by the Council President, Phil Andrews."

40 SCOTT HERMAN:

41 Thanks very much.



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1  
2 COUNCIL VICE PRESIDENT BERLINER:

3 Come and say a few words if you'd like, or play--play something if you'd like. Or...  
4

5 SCOTT HERMAN:

6 I'm deeply honored and I feel quite privileged to be here in front of you, and I want to first  
7 thank the County Council for this proclamation. I've had a tremendous career, and I've  
8 been very fortunate to have spent my entire career at Cabin John Middle School. It's been  
9 a wonderful place to start and build my teaching career, and it's a phenomenal place to  
10 work every day, and I'm looking forward to my next chapter there as we close and go into  
11 renovation. So--it's been a lot of a fun, and, you know, it wouldn't be possible to have the  
12 excellence without the support of a tremendous faculty and administration, and I have got  
13 a great administration this year behind me, and I wanted to thank Dr. Smith and Mr.  
14 Everly, my department assistant principal, for their support and their continuing support of  
15 music at Cabin John. It's a tremendous place to work. Thank you very much.  
16

17 PAULETTE SMITH:

18 I'm going to be very brief, but as you have already heard, Mr. Herman has been at Cabin  
19 John for 20 years, and I've known him for 8 years, and he far surpasses any other music  
20 teacher for whom I've been in contact. The second thing is, if you have not heard Mr.  
21 Herman, you would be in a position for a treat of amazing sounds. That's how I always  
22 describe him when I introduce him to the audiences when he does his concert. He is an  
23 amazing teacher, as well. We are very proud to have him on our staff, and he is more than  
24 deserving of this proclamation, and we so thank the County Council, and we thank our  
25 Board of Education for their support, as well. Thank you.  
26

27 PHOTOGRAPHER:

28 OK. Take a few pictures. Why don't we put him in the middle? That'd be great.  
29

30 COUNCIL PRESIDENT ANDREWS:

31 Congratulations again to Scott Herman, and thank you, Council Vice President, for doing  
32 the honors this morning. Our final presentations of the morning will be in recognition of  
33 Rasheim Smith, Steven Gamble, Nadjitade Badje, and Dake Williams for winning the  
34 State Wrestling championships, and I get to do the honors for this one, and I'm going to  
35 ask all of the wrestlers who are here to join me at the front, as well as their coaches, if  
36 they are here, and/or school principals. And again, if our Board representatives would like  
37 to join us, that would be great, as well. Montgomery County had a very successful year in  
38 many endeavors at the public high schools, and that included wrestling, and we have 3 of  
39 our state championships-- champions--who were able to join us this morning, and I'm  
40 going to go--two. I'm sorry. We've got two. We had two others who are not here.  
41



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1 UNKNOWN SPEAKER:

2 He looks young enough.

4 COUNCIL PRESIDENT ANDREWS:

5 You're in such good shape! Well, it was always hard in high school to tell the ages. All  
6 right. I'm going to go by weight class this time, rather than alphabetically, and I will read  
7 the proclamations because I think they tell it all. And I just want to say, on behalf of the  
8 Council, congratulations for a great year, and this proclamation will be to recognize  
9 Rasheim Smith, and Rasheim is behind me in the blue shirt. Right?

11 RASHEIM SMITH:

12 Yeah.

14 COUNCIL PRESIDENT ANDREWS:

15 OK. All right. Rasheim, why don't you come up here? "Whereas, few high school sports  
16 test the individual skill, strength, dedication, required training, concentration, and  
17 determination as does high school wrestling, and these were the attributes that Blake High  
18 School senior Rasheim Smith demonstrated in winning the 112-pound 2009 Maryland  
19 4A/3A State Championship; and whereas, on his way to the state title, Rasheim finished  
20 with a 39-2 season record, winning his second straight Maryland 4A/3A West Region  
21 Championship; and whereas, after finishing as the state runner-up at 103 pounds as a  
22 junior, he emerged victorious in one of the most exciting matches of the Maryland State  
23 Tournament finals, scoring a takedown of his opponent with 13 seconds remaining to gain  
24 a 6-4 winning margin; and whereas, his achievements have led to Rasheim being honored  
25 as a second team All-Met selection by The Washington "Post" and as a first team All  
26 Montgomery County selection by the Gazette newspapers, now, therefore, be it resolved  
27 that the Montgomery County Council congratulates the Maryland State wrestling  
28 champion Rasheim Smith, and be it further resolved that the Montgomery County Council  
29 joins with the entire Blake community in recognizing this wonderful achievement of  
30 bringing home a championship to Montgomery County." It's presented today and signed  
31 by me on behalf of the County Council, and, Rasheim, congratulations on a great year.

33 RASHEIM SMITH:

34 Thank you.

36 COUNCIL PRESIDENT ANDREWS:

37 And would you like to say a few words?

39 RASHEIM SMITH:

40 I would just like to thank my parents for their support, my coaches, and, you know,  
41 everyone who came out to support us during the matches. And that's pretty much it.





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1  
2 COUNCIL PRESIDENT ANDREWS:

3 Great work, and best wishes as you go on.  
4

5 RASHEIM SMITH:

6 Thank you.  
7

8 COUNCIL PRESIDENT ANDREWS:

9 And I should remember you, because you were here a few weeks ago. Our next honoree  
10 is Steve Gamble, who was here just a few weeks ago as part of the football team at  
11 Sherwood High School that won its state championship, and he is back, and if anything,  
12 he's better at wrestling, which is saying a lot. Steve Gamble, congratulations on a great  
13 year, and I will read the proclamation. It is a different proclamation, so I'm going to read it.  
14 "Whereas, few high school sports test the individual skill, strength, dedication, training,  
15 concentration, and determination as wrestling does, and these were the attributes that  
16 Sherwood High School senior Steven Gamble demonstrated in winning the 2009  
17 Maryland 4A/3A 160-pound State Championship; and whereas, on his way to the state  
18 title, Steven finished as one of the only undefeated wrestlers throughout the Washington  
19 region, emerging victorious in all 34 of his matches and becoming the first 4-time  
20 individual champion in the 46-year history of the Montgomery County Public Schools  
21 Wrestling Tournament" --wow. "And whereas, after 3 seasons as a state runner-up, the 4-  
22 time Maryland 4A/3A West Region champion was dominating in the 2009 State  
23 Tournament, winning in the final 12-0 to finish with a career record of 135-7; and whereas,  
24 winning a state wrestling title was only part of a dream senior year, as Steven also was a  
25 standout linebacker for the Warriors Maryland 4A state championship football team, and  
26 he has been honored as a first team All-Met selection by The Washington "Post" and as  
27 the Montgomery County Wrestler of the Year by the Gazette newspapers. Now, therefore,  
28 be it resolved that the Montgomery County Council congratulates the Maryland state  
29 wrestling champion Steven Gamble, and be it further resolved that the Montgomery  
30 County Council joins with the entire Sherwood community in recognizing this wonderful  
31 achievement of bringing home a championship to Montgomery County." Presented this  
32 day, signed by myself on behalf of the County Council. Steven, congratulations on a great  
33 year.  
34

35 STEVEN SMITH:

36 Thank you.  
37

38 COUNCIL PRESIDENT ANDREWS:

39 Would you like to say a few words?  
40

41 STEVEN SMITH:



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1 First, I'd like to thank my coaches for helping me this year, getting me concentrated and  
2 actually overcoming and be able to win the state finals. I'd also like to thank my parents for  
3 dealing with me through all my wrestling and football seasons, and also all the fans and  
4 the community that came out to watch me and help me win the state title.

5  
6 COUNCIL PRESIDENT ANDREWS:  
7 Congratulations again, and...

8  
9  
10  
11 SCOTT BEATTIE:

12 Hi. I'm Scott Beattie from Sherwood High School. I'm Steven's wrestling coach and have  
13 been for 4 years. It's been a great treat to coach him throughout his history at Sherwood--  
14 outstanding athlete, student, and the one thing I wanted to add to that is he's committed to  
15 University of Maryland, so he's going to stay home here and wrestle for Maryland, so...  
16 And also, Rasheim, I've watched him wrestle at our neighborhood school, and what he  
17 has done in the 3 years that--he didn't even wrestle till 10th grade, and for him to come  
18 out and be a state champ his senior year, it's phenomenal. It's one of the greatest  
19 achievements I've seen in such a short time, so congratulations, both of you.

20  
21 COUNCIL PRESIDENT ANDREWS:

22 Congratulations. Now we have--I'm not done. We have two other wrestlers who we're  
23 recognizing who could not be with us this morning, and then we will take a picture. But I  
24 do want to recognize the achievements of our two other state champs who were not able  
25 to be with us this morning. I'll first recognize Nadjitade Badje, who won the 171-pound  
26 2009 Maryland State 4A/3A championship. On his way to the state title, Nadjitade finished  
27 as one of the Washington region's only unbeaten wrestlers at 39-0. He's a Springbrook  
28 High School senior. He claimed his 104th career victory, winning County and Maryland  
29 4A/3A West Region championships. At the Maryland State Championships, he showed  
30 his toughness in overcoming his highly touted opponent for a 6-3 victory and the title to  
31 become Springbrook's first individual state champion in 29 years. "And whereas, his  
32 achievements have led to Nadjitade being honored as a second team All-Met selection by  
33 The Washington "Post" and as a first team All Montgomery County selection by the  
34 Gazette, it is resolved that the Montgomery County Council congratulates the Maryland  
35 state wrestling champion Nadjitade Badje. And be further resolved that the Montgomery  
36 County Council joins with the entire Springbrook community in recognizing this great  
37 achievement." And it's presented to him this day, and we congratulate him for a  
38 tremendous year. And then I will read our last proclamation, which is to recognize Dake  
39 Williams of Quince Orchard High School, who won the 285-pound 2009 Maryland 4A/3A  
40 state championship. "Whereas, he suffered a foot injury through the football season which  
41 forced him to miss much of wrestlers' regular season, but he overcame the circumstances

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1 to finish 13-1 and win County and Maryland 4A/3A West Region championships; and  
2 whereas, after finishing as a state runner-up at 215 pounds as a junior, he is one of the  
3 most dominant individuals in the Maryland State Tournament this winter, posting the  
4 second-fastest pin in the finals in a time of one minute, that being his career 77th victory  
5 by pin; and whereas, Dake, who carried a 3.8 grade-point average in the classroom, has  
6 been honored as a first team All-Met selection by The Washington "Post" and as a first  
7 team All-Met County Selection by the Gazette, it is now resolved that the County Council  
8 recognizes the Maryland state wrestling champion Dake Williams, and it is further  
9 resolved that the Montgomery County Council joins with the entire Quince Orchard  
10 community in recognizing this outstanding achievement of bringing home a championship  
11 to the County." And it's presented today and signed by me as Council President. And I  
12 don't believe that Dake was able to join us. I was waiting for the proclamation for a little bit  
13 --or Nadjitade--but we want to recognize them, as well, and we will get the proclamations  
14 to them. And with that, we will now take a group picture, and... Thank you.

15  
16 PHOTOGRAPHER:

17 Hold those proclamations up a little higher.

18  
19 COUNCIL PRESIDENT ANDREWS:

20 Congratulations again to all our honorees, and best wishes for the remainder of the year  
21 and for the future. We're now going to go on to general business and announcements,  
22 agenda, and calendar changes. Miss Lauer.

23  
24 LINDA LAUER:

25 Good morning. Two additions to the Consent Calendar--introduction of a resolution to  
26 repeal the Dickerson Area Facilities Implementation Group, sponsored by Councilmember  
27 Leventhal, and introduction of a resolution to implement recommendations of the  
28 Committee Evaluation Review Board, sponsored by Councilmember Leventhal. District  
29 Council Session-- addition of another item here. It's introduction. It's an amendment to  
30 Chapter 33A, Planning Process, Planning Procedures--it's the Master Plan process  
31 relating to public hearing timing period-- sponsored by Councilmember Leventhal.  
32 Resolution will be before you to establish a public hearing for June 9 at 1:30. In the  
33 Legislative Sessions, two bills for introduction-- Bill 20-09, Boards, Committees, and  
34 Commissions - Community Evaluation Review Board Recommendations, sponsored by  
35 Councilmember Leventhal. Public hearing May 12 at 1:30. Bill 21-09, Boards,  
36 Committees, and Commissions - Amendments, sponsored by Councilmember Leventhal.  
37 Public hearing May 12 at 1:30. And then this afternoon, at the 1:30 public hearings, there  
38 were two hearings that we are moving to tonight to accommodate extra speakers.  
39 However, at this afternoon, we are accommodating two of those speakers at the 1:30 time  
40 slot, and that's the one on the transportation fees, charges, and fares. This week, we



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1 received one petition, and this is from residents supporting Suburban Hospital campus  
2 enhancement project. Thank you.

3  
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Miss Lauer. We'll now move to action on approval of minutes of March 30 and  
6 31 of 2009. Is there a motion?

7  
8 COUNCILMEMBER KNAPP:

9 So moved.

10  
11 COUNCIL VICE PRESIDENT BERLINER:

12 Second.

13  
14 COUNCIL PRESIDENT ANDREWS:

15 Moved by Councilmember Knapp. Seconded by Council Vice President Berliner. Any  
16 comments? Seeing none, all in favor of the approval of the minutes of March 30 and 31,  
17 please raise your hand. And that is Councilmember Elrich, Councilmember Trachtenberg,  
18 Councilmember Floreen, myself, Council Vice President Berliner, Councilmember Knapp,  
19 and Councilmember Leventhal. They are approved, 7-0. We'll now move to the Consent  
20 Calendar. Is there a motion for approval?

21  
22 COUNCILMEMBER KNAPP:

23 Move approval.

24  
25 COUNCILMEMBER FLOREEN:

26 Second.

27  
28 COUNCIL PRESIDENT ANDREWS:

29 Moved by Councilmember Knapp. Seconded by Councilmember Floreen. Is there  
30 discussion on the Consent Calendar? I see Councilmember Knapp. Go ahead.

31  
32 COUNCILMEMBER KNAPP:

33 Mr. President, actually, I just wanted to be added as a cosponsor to the amendment to  
34 Chapter 33A, the Planning Procedures, introduced by Mr. Leventhal. I think that's a good  
35 idea to help us expedite our Master Planning process.

36  
37 COUNCIL PRESIDENT ANDREWS:

38 Thank you. OK. Very good. You will be added to that as a cosponsor. And Council Vice  
39 President Berliner.

40  
41 COUNCIL VICE PRESIDENT BERLINER:



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1 I just wanted to call my colleagues' attention to Item G, in which our colleague,  
2 Councilmember Trachtenberg, is being appointed to the Board of Social Services. That  
3 certainly reflects her commitment to those folks that are most in need, and grateful for the  
4 County Executive's appointment. Thank you.

5  
6 COUNCIL PRESIDENT ANDREWS:

7 Well said. And I'm going to note that, as usual--as is common, at least, in our Consent  
8 Calendars, we have a number of people being appointed to important boards and  
9 commissions. We very much value their service, and I will just briefly read those names  
10 before we vote on the Consent Calendar. The County Executive's appointments that are  
11 being confirmed this morning--to the Commission on Aging, Morton A. Davis, Vivien  
12 Hsueh, Judith Levy, Marcia Pruzan, Spencer Schron, John "Jack" Sprague, Robert Tiller,  
13 and Judith Welles; to the Commission on Child Care, Meeta Sharma-Holt, Nuri Funes,  
14 Mary Lou Kitchen, Anne Albright, and Maria Carrington; to the Forest Conservation  
15 Advisory Committee, Bryan Straathof; to the Rustic Roads Advisory Committee, Fred  
16 Lechliden, Robin Ziek, and Marc Miller; and, as was noted, to the Board of Social  
17 Services, our colleague Duchy Trachtenberg. And I do not see any other comments on  
18 the Consent Calendar, so all those in favor of the Consent Calendar, please raise your  
19 hand. And that--Councilmember Ervin, I assume you're supporting--Consent Calendar is  
20 approved unanimously, 8-0. Our next action is regarding the County Executive's  
21 appointee for the director of the Department of Economic Development, Steven A.  
22 Silverman, and I would like Mr. Silverman to join us at the front as is our chief  
23 Administrative Officer, Tim Firestine. And we had an interview with Mr. Silverman last  
24 Tuesday, before the full Council, and we know that Mr. Silverman is well prepared for this  
25 position, having chaired the Planning, Housing, and Economic Development Committee  
26 here for a number of years and having worked on a number of economic development  
27 issues prior to going on the County Council, as well, particularly in the Silver Spring area,  
28 but in many other capacities, also. And I know that I speak for all of my colleagues when I  
29 say that we are looking forward to working with you. I think all of us have had a chance to  
30 meet with you individually, as well, since-- or--since around the time, at least, of the  
31 interview last Tuesday, and there is a lot of work to do in this area. We know that you  
32 have a comprehensive grasp of this and more than a little energy to undertake this and  
33 that you will put everything you have into this position. And so I am very happy to support  
34 your appointment, as I know my colleagues are, also. We very much look forward to  
35 working with you in the coming months and years. And would you like to say anything, or  
36 would... would you like to wait till-- Press the button.

37  
38 STEVEN SILVERMAN:

39 Nice digs. I left way too soon. Thank you very much, President Andrews. I'm grateful for  
40 the opportunity that the County Executive has given me to serve the county again. We do  
41 have incredible challenges in this county. I've appreciated being able to talk with all of you



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1 individually and look forward to working very closely with every one of you to make this  
2 county--continue to make this county a great place to work, play, and live. We've got to roll  
3 up our sleeves and be very creative, but I know based on the conversations I've had with  
4 you that we're going to have a great working relationship in helping to build a strong  
5 economy to pay for the programs and services that we all love so dearly. So I appreciate  
6 your vote of confidence in me, and the County Executive's, and time to get to work.

7  
8 COUNCIL PRESIDENT ANDREWS:

9 Very good. Thank you. And I'll ask Mr. Firestine if he would like to add anything.

10  
11 TIMOTHY FIRESTINE:

12 No. I just want to get him to work.

13  
14 COUNCIL PRESIDENT ANDREWS:

15 OK. Make sure he goes directly to work from here. I understand. All right. It would be--  
16 yeah, it's a nice golf day, it's true. I think you should take him straight back across the  
17 street. OK.

18  
19 COUNCIL VICE PRESIDENT BERLINER:

20 Do we need a motion, Mr. President?

21  
22 COUNCIL PRESIDENT ANDREWS:

23 Yes, we need a motion.

24  
25 COUNCIL VICE PRESIDENT BERLINER:

26 I so move.

27  
28 COUNCILMEMBER KNAPP:

29 Second.

30  
31 COUNCIL PRESIDENT ANDREWS:

32 Council Vice President has moved the confirmation of Steven Silverman as the director of  
33 the Department of Economic Development. Seconded by Councilmember Knapp, I  
34 believe.

35  
36 COUNCILMEMBER KNAPP:

37 Yes.

38  
39 COUNCIL PRESIDENT ANDREWS:

40 And --and if there are no comments, we will go ahead and vote. All those in favor of this  
41 appointment, please raise your hand. And that is unanimous, and congratulations, Mr.



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1 Silverman. Thank you, colleagues. We are now on to Item 4, which is the presentation by  
2 our Office of Legislative Oversight on their research on furloughs and buyouts, and we  
3 have our Office of Legislative Oversight in front of us, and I will just turn it over to them.

4  
5 KAREN ORLANSKY:

6 OK. Good morning.

7  
8 COUNCIL PRESIDENT ANDREWS:

9 Good morning.

10  
11 KAREN ORLANSKY:

12 I'm Karen Orlansky, director of the Office of Legislative Oversight, and I'm joined here at  
13 the table--Aron Trombka and Craig Howard. I also want to acknowledge Sarah Downie  
14 and Rich Romer, the two other OLO staffers who worked with us on the research brief on  
15 furloughs and buyouts. A few minutes of background. In February, the Council amended  
16 the Office of Legislative Oversight's work program to add a number of assignments  
17 directly related to assisting the Council with its review of the FY10 budget. Today's  
18 memorandum report presents the--represents the completion of one of those  
19 assignments. Keeping with the county's history of trying very hard to avoid layoffs, your  
20 assignment to us was to prepare a research brief on furloughs and buyouts, which stand  
21 as two alternative strategies being used by employers to reduce compensation costs and  
22 downsize or restructure the workforce. This morning, we'll briefly present a summary of  
23 our research, which includes the experience of other public sector employers with  
24 furloughs and buyouts, as well as their use here in the county. In our short briefing, we'll  
25 hit the highlights. The report itself contains more detailed information, and for anyone  
26 listening, you can read the full report on our web site. We will be talking from the 4-pager,  
27 which is in your handout attached to my cover memo, agenda number--agenda item  
28 number 4. First Craig on furloughs, then Aron on buyouts, and then we will spend a few  
29 additional minutes walking the Council through our fiscal analysis of the 2009 buyout,  
30 which we presented to the MFP Committee yesterday as part of their worksession on  
31 Expedited Bill 10-09. And one final thing--this assignment is no different than others  
32 you've given to us in that I see our job very much as being honest brokers of information  
33 on your behalf. I know the Councilmembers know this, but I just need to say it. When we  
34 get into the fiscal impact, especially of the buyout of 2008 and the new one for 2009,  
35 please know that we really had absolutely no vested interest in finding that it had a great  
36 savings to you or a great cost to the taxpayers. So now I'm going to turn that over to  
37 Craig. Thank you.

38  
39 CRAIG HOWARD:

40 We will begin with a summary of our research on furloughs. A furlough is the placement of  
41 an employee in a temporary non-pay, non-duty status to achieve budget savings. The use



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1 of furloughs has expanded during the past year as a relatively common employer  
2 response to the current economic downturn. For our report, OLO researched general  
3 information on the use of furloughs, as well as researching in more detail the furlough  
4 plans of 8 different public sector organizations. Some of the most commonly cited  
5 advantages and downsides to using furloughs are listed in the table on circle one of the  
6 packet. Commonly cited advantages include that furloughs provide immediate and  
7 predictable budget savings--

8  
9 COUNCIL PRESIDENT ANDREWS:

10 Craig, can you speak a little louder or push that mike a little closer?

11  
12 CRAIG HOWARD:

13 Is that better?

14  
15 COUNCIL PRESIDENT ANDREWS:

16 Thank you. Maybe just a little louder, as well.

17  
18 CRAIG HOWARD:

19 All right.

20  
21 COUNCIL PRESIDENT ANDREWS:

22 Thank you.

23  
24 CRAIG HOWARD:

25 Furloughs are a temporary adjustment that does not require a change to the workforce  
26 structure, and furloughs can provide some savings in operating costs by closing facilities  
27 on certain days. Commonly cited downsides include that furloughs do not accomplish  
28 long-term structural savings, they can result in lawsuits or grievances, and they also can  
29 result in increased overtime expenses. On the top of circle two of the packet, we list 7  
30 questions related to the structure of a furlough. Based on our research, we found that  
31 while furloughs are not structured identically, these are the common design questions to  
32 address relating to issues such as the level of budget savings desired, the amount of  
33 furlough time to be taken, and whether furlough days should be designated or subject to  
34 employee choice, often referred to as rolling furloughs. While some of these issues are  
35 addressed in the current Montgomery County personnel regulations, these are the  
36 common design questions we recommend you discuss if and when considering a furlough  
37 plan, and in deciding how to answer these questions, we also must do so within a  
38 framework that weighs 3 potentially competing factors--budget savings, adverse impacts  
39 on employees, both in terms of wages and morale, and changes in productivity and levels  
40 of service delivery. Circle two of the packet also lists some lessons learned based on the  
41 furlough plans implemented by other public sector employers and illustrates how furlough





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1 structures in those other jurisdictions attempt to balance the 3 competing factors I just  
2 mentioned. While I won't go through them all, I would like to highlight a couple. The first is  
3 that we found several examples of furloughs designed to mitigate some of the negative  
4 effects on employees, especially the financial loss for those employees who earn lower  
5 salaries. A typical strategy is to protect employee benefits-- ahem, excuse me--from being  
6 decreased as a result of the furlough. Other strategies include exempting employees who  
7 earn less than a certain amount from the furlough or requiring higher-paid employees to  
8 take more furlough days than lower-paid employees. The second theme I'd like to  
9 highlight is that not much is documented about the impact of furloughs on productivity.  
10 However, several jurisdictions are using strategies such as rolling furloughs or exempting  
11 certain job classes from the furlough in an attempt to minimize service disruptions. And on  
12 that note, I will turn it over to Aron to summarize the research on buyouts.

13  
14 ARON TROMBKA:

15 Thank you, Craig, and again, starting with some brief background--a buyout is any type of  
16 financial incentive to encourage employees to voluntarily leave their jobs. The primary  
17 objective for offering a buyout is to provide an opportunity to reduce compensation costs  
18 in a way that minimizes or avoids the need for layoffs. Buyouts can also serve as an  
19 effective tool for restructuring by creating vacancies that allow the employer to reshape  
20 the workforce to reflect current staffing needs and resource availability. As you'll see on  
21 the table on page 3 of the packet-- circle 3 of the packet-- there are different types of  
22 buyouts. There are some types of buyouts than an employer can offer any employee.  
23 These include cash payments, contributions to portable retirement accounts, or enhanced  
24 post-employment health benefits. When employees are in a defined benefit retirement  
25 plan--such as the retirement plan for county employees hired before 1994--additional  
26 incentives are possible. These include adjustments to credited years of service, lowered  
27 age and years of service requirements, and reductions in early retirement penalty. The full  
28 report includes examples of buyout programs offered by 17 different public sector  
29 employers. Now, in our report, we reviewed the evaluations of buyouts conducted by the  
30 federal government and by several state governments, and all the evaluations we looked  
31 at reiterated one recurring theme --that buyouts run the risk of incurring costs that offset or  
32 exceed program savings, particularly when implemented independent of a downsizing or  
33 restructuring plan. Much of the fiscal benefit of a buyout is lost when a--when an employer  
34 refills vacated positions, pays overtime, or hires contractors to perform the work of buyout-  
35 vacated positions. The long-term cost effectiveness of buyouts is particularly questionable  
36 when it creates sizable long-term liabilities, such as increased pension and/or retiree  
37 health benefits. To avoid these problems, both federal and state evaluators have made  
38 some basic recommendations, and they include, one, only implementing buyouts in  
39 concert with a downsizing plan; two, targeting buyouts toward job classes that are subject  
40 to reductions in force; and 3, minimizing the refilling of vacated positions. Last year, as  
41 you know, the Executive recommended, and the Council approved, a buyout program for



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1 county government employees in the defined benefit plan. Last year's buyout consisted of  
2 a \$25,000 per employee payment, which was taken from the retirement trust fund, and a  
3 reduction in the early retirement penalty. The terms of last year's buyout, as with this  
4 year's buyout, were bargained. 838 employees were eligible for last year's buyout. 150  
5 employees, or 18%, actually accepted the offer. Of particular note is the percent of  
6 positions refilled after the buyout--after last year's buyout. While the county had a goal to  
7 refill no more than half of the vacated positions, in fact, close to two-thirds, or 64%, of  
8 positions were refilled. OLO conducted a fiscal analysis of the 2008 buyout that's included  
9 in our report. Our analysis followed a methodology used by auditors in Massachusetts and  
10 Minnesota and by the State Retirement Commission in Pennsylvania. As you'll see on the  
11 table on circle 4 of the packet, looking in the right-most column, in FY09, the buyout  
12 reduced compensation costs by a net of 8.5 million. However, over the next decade, the  
13 buyout will end up costing the county 12.8 million more than it will save. How did the  
14 buyout save money in FY09? The county lowered compensation costs, primarily through  
15 elimination of salaries for abolished positions and lapsed achieved by the--by the delay in  
16 refilling other positions. But why do buyout costs exceed savings in the following 10  
17 years? First, the county deferred most buyout costs to begin in FY10. For example, the  
18 county will only begin in FY10 to repay the retirement fund for the \$25,000 per employee  
19 payments. In addition to the cost of the incentive payments, the buyouts also increased  
20 the county's future liability for retiree pensions and health coverage. By encouraging  
21 employees to retire earlier than expected, the county obligated itself to pay post-  
22 employment benefits for a longer period of time. The major cause, though, for the cost of  
23 the buyout is the refilling of positions. The county paid people to leave--people to leave  
24 who had occupied positions that were soon refilled, thus negating most of the potential  
25 savings. Had the buyout been linked with a downsizing plan that would have allowed for  
26 the abolishment of all vacated positions, then the buyout would have produced net  
27 savings, rather than a \$12.8 million loss over the next decade. Now we come to this year.  
28 As you know, the Executive has proposed another buyout for this year. In a few moments,  
29 we will go through our fiscal analysis for that buyout, but given the lessons learned, we  
30 have suggested, on circle 4 of your packet, some questions that the Council might want to  
31 consider in reviewing this year's buyout proposal, and they focus primarily on long-term  
32 costs and refill and abolishment rates.

33  
34 KAREN ORLANSKY:

35 Thank you. Sarah is going to pass out the handout we're going to talk from for the fiscal  
36 analysis of the 2009 buyout. As she's doing that, I'll just say, you know, one clear--one  
37 clear piece of--I'm getting the "talk louder and closer." There you got it. OK. One clear  
38 piece of news from our research is that the use of furloughs and buyouts as strategies for  
39 reducing compensation cost is really a whole lot more complex than it might initially  
40 appear. There are different approaches to weigh and numerous calculations of savings  
41 and costs to consider. As we turn to the 2009 buyout, I'll just remind you, it's before the



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1 Council in two forms --two form actions, pieces of action. One is in the form of legislation,  
2 Bill 10-09, and the other is a provision in the amendments to the County government's  
3 collective bargaining agreements with MCGEO. So...everybody got that. OK. Let me just  
4 tell you a little bit about how we approach this task. Similar to what we did in 2008, we  
5 adopted--when we analyzed the 2008 buyout. We adopted a methodology employed by  
6 other evaluators and auditors who have studied the fiscal impact of buyout plans in other  
7 places. We relied on budget numbers provided by the Executive. We went over our  
8 assumptions and data points with our colleagues in the Office of Management and  
9 Budget, the Office of Human Resources, and we consulted with the county's actuary. In  
10 fact, as we calculated the numbers that we're going to go over with you this morning on  
11 the fiscal impact of the 2009 buyout, we're going to lead with the conclusions that use  
12 absolutely all of the Executive branch's assumption on program design, participation,  
13 savings, and cost. The bottom line is that, similar to the common experience found in  
14 other jurisdictions and similar to what Aron just spoke--spoke you through in terms of  
15 2008, unless a buyout is associated with the abolishment of a substantial number of  
16 buyout-vacated positions, the program is going to carry a very high net cost. And in the  
17 case of the 2009 buyout as proposed by the Executive, we estimate that this cost is about  
18 7--at least \$17.1 million. Attached to your fiscal analysis packet here on circle one--we  
19 don't have that up on the screen, but just to remind you, it's the design comparing the  
20 2009 buyout to the 2008. Just very briefly, you'll see the eligibility is the same. Employees  
21 in the ERS who are within two years of normal retirement, the incentive is more generous--  
22 40,000, up from 25,000--and a more generous reduction in the early retirement penalty.  
23 Similar to last year, the County Executive proposes again to finance the buyout from the  
24 ERS trust fund, with a plan to amortize the payback over 10 years. And finally, the bottom  
25 two lines of the table compare program participation refill rates. 150 employees  
26 participated in 2008 with a refill rate of about 64%. The Executive has anticipated in their  
27 fiscal impact that approximately 135 employees will participate in 2009, and the fiscal  
28 impact from OMB has two scenarios--one with a zero percent abolishment, and one with a  
29 10% abolishment. So now Aron is going to do 3 things, and we promise to do this quickly.  
30 He's going to begin with an employee perspective, so you understand what it looks like  
31 per employee. We'll then move to the macro view of costs and savings over 10 years, and  
32 then we'll end with our conclusions, because we had a number of questions from  
33 Councilmembers--where's the break-even point? We want to show you what percent of  
34 the positions would have to be abolished in order for you to have a net cost of --a break-  
35 even point of neutral over the next 10 years.

36  
37 ARON TROMBKA:

38 So I ask Councilmembers please to turn to circle two of the addendum, and similar charts  
39 will appear on the screen. And as Karen said, we'll first show how abolishing-- abolishing  
40 buyout-vacated positions can save money. Then we'll show how refilling positions produce  
41 a net cost. As Karen stated, all data shown on this page came from the Executive and



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1 from the county's actuaries. So how much does the county save by eliminating a buyout-  
2 vacated position? Line one of the chart shows the average salary of employees eligible for  
3 this year's buyout --a cost that would be shed by abolishing the position. Of course,  
4 abolishing position also relieves the county of paying benefits for that position. Line two  
5 shows the cost of county contributions for health insurance. Line 3 shows the cost for  
6 county contributions for the retirement fund. Line 4 shows the cost paid by the county for  
7 Social Security and life insurance. In total, you'll see that the full cost to the county on  
8 average for an employee who is eligible for this year's buyout is about \$101,000. This is  
9 the amount that would be reduced from a department's budget if the position were  
10 abolished. Please note, however, that when an employee retires, some benefit costs  
11 reappear elsewhere in the operating budget. Line 6 shows the county's continuing  
12 obligation to pay for health insurance for a retiree. These costs appear in a non-  
13 departmental account that the Council funds. Line 7 shows the portion of the retirement  
14 contribution-- that is the portion of line 3, above--that the county will continue to pay after  
15 an employee's retirement. These costs are re-allocated among remaining active  
16 employees in the defined benefit retirement plan. Finally, line 8 shows the cost of the  
17 buyout program itself. This line consists of 3 items--one, repaying the retirement trust fund  
18 for the cost of the \$40,000 per employee buyout payment; two, the additional liability  
19 incurred by the retirement trust fund resulting from employees retiring earlier than  
20 expected; and 3, the additional liability to the retiree health insurance fund resulting from  
21 the employees retiring earlier than expected. The costs on line 8 represent annual costs  
22 that will recur for 10 years. All told, you'll see that abolishing a buyout-vacated position  
23 nets savings totaling about \$63,700. This shows how a buyout can reduce compensation  
24 costs when a position is abolished. Next, we'll look at what happens when the county  
25 refills a buyout-vacated position. This is the table on the bottom half of circle two of the--of  
26 the addendum, and it's the bottom of the screen. Lines one through 8 are identical to  
27 those on the table on the top. Line 9, however, shows that the Executive's estimate of the  
28 average total salary and benefits combined for a new hire that would refill a buyout-  
29 vacated position. Note that the full cost of the refilled position--81,100-- is \$20,000 below  
30 the full cost of the existing position. However, refilling the position still results in a net cost  
31 to the county because of the costs shown in lines 6, 7, and 8. In sum, abolishing buyout-  
32 vacated positions yields savings. Refilling these positions produces net costs. Now that  
33 we have looked at the fiscal impact of the buyout on a single position, let's turn to how the  
34 proposed buyout will affect the operating budgets, both for FY10 and beyond. Next tab,  
35 please, Rich. Thank you. To calculate the budget impact, we have to make a few  
36 assumptions. First, how many employees will take the buyout? The Executive assumes  
37 that 135 employees will participate in the--in the program. We will use that assumption in  
38 our calculation. Next, how many buyout-vacated positions will be abolished? The  
39 Executive's fiscal impact statement assumes that between zero and 10% will be  
40 abolished. We'll use the higher number, the 10% abolishment rate, in our calculation.  
41 Finally, for how many years in the future should we assume buyout costs and savings will

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1 continue? The cost side is easy. The Executive assumes 10-year repayment of the buyout  
2 costs, and we will use that assumption. Regarding the number of years to count beyond--  
3 regarding the number of years to count buyout cost savings, the accepted methodology  
4 states that you count benefits for the number of years an employee would have stayed in  
5 his or her position absent the buyout. We'll show two scenarios. What we call the 5-5  
6 scenario assumes that both employees who are eligible for retirement and employees  
7 who are within two years of retirement would have otherwise left the county in 5 years.  
8 The second scenario, what we call the 2-4 scenario, assumes that employees already  
9 eligible for retirement would have remained with the county for two years, and the early  
10 retirees would have stayed another 4 years. OLO believes that this scenario, the 2-4  
11 scenario, is the more reasonable assumption. You will see on circle 3 that under either  
12 scenario, and assuming a 10% abolishment rate, the buyout will produce \$4.4 million in  
13 savings and \$1.3 million in new costs in FY10. As a result, the county will experience a  
14 net savings in FY10 of \$3.1 million. That's the number to the right. However, once the  
15 costs of the buyout kick in beginning in FY11, the program produces large net costs. All  
16 told, we estimate that the proposed buyout will result in a net loss of at least \$17.1 million  
17 over the next decade under the 5-5 scenario. The program will cost over \$20 million over  
18 the next decade under the 2-4 scenario. Again, all these estimates assume that 10% of  
19 the positions will be abolished. We wanted to see what would be the break-even point for  
20 the proposed buyout. In other words, what abolishment rate would be necessary for the  
21 buyout to be cost neutral? Next tab, Rich. On circle 4, you will see that under the 5-5  
22 scenario, the proposed buyout would be cost neutral over 10 years if--and that's if-- 42%  
23 of buyout-vacated positions are abolished. On circle 5--next tab-- on circle 5, you will see  
24 that under the 2-4 scenario, the proposed buyout would be cost neutral over 10 years if  
25 85% of buyout-vacated positions are abolished. That concludes our summary of the fiscal  
26 analysis for this year's buyout. We do want to bring, finally, to the Council's attention one  
27 note from Mr. Drummer's packet to the MFP Committee yesterday relevant to our  
28 discussion at hand, and in that he quotes data from the Office of Human Resources that  
29 notes that the county this year is looking to abolish, to RIF, about 234 positions. And he  
30 notes the fine job that OHR has done to date in filling --in transferring many of those  
31 people into unfilled positions--positions that have been held vacant, and Council should  
32 note that at present, there appear to be about 48--about 45 full-time positions and about  
33 48 part-time bus operator positions that are still-- that still have not been taken care of,  
34 where those positions --the people filling those positions do not yet have a place to go.  
35 And it's important to keep those numbers in mind when you consider the implications and  
36 the purpose and the use of the buyout program.

37  
38 KAREN ORLANSKY:

39 OK. Thank you. And just in closing, I want to introduce two words--two descriptive words  
40 that we may use in the following discussion, and one is what you'd call a random buyout,  
41 and one is a targeted buyout. And what is before you in the bill and what was bargained is



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1 what you'd call a random buyout, which is, everybody who's eligible, regardless of what  
2 job that they are performing in the government, would be eligible for the buyout. A  
3 targeted buyout is where you would only offer it in certain places. We've seen some  
4 examples of that in other places, where they already know they want to downsize a  
5 particular office or particular function--they don't want to make as many widgets over here--  
6 -and so you are prepared to easily turn around and abolish positions. But once you've  
7 offered a random buyout, it becomes much, much more difficult--and maybe perhaps poor  
8 management --if you end up abolishing those positions, just because you're ending up  
9 deciding to abolish positions based on almost seniority, as opposed to some strategic plan  
10 about where you'd like your government to grow smaller. So, with that, we're done. Thank  
11 you for listening.

12  
13 COUNCIL PRESIDENT ANDREWS:

14 OK. Well, nice--well presented, very concise and very timely and thorough, and, you  
15 know, this is useful information, and I thank you for your analysis. And I will turn to my  
16 colleagues. Council Vice President Berliner first.

17  
18 COUNCIL VICE PRESIDENT BERLINER:

19 Thank you. It is an excellent report, and I don't think anybody could accuse this operation  
20 of having a bias in one way or the other. So I am very grateful for your thorough work and  
21 the way in which you've documented your work. The question that I have for you, given, in  
22 some ways, how provocative your conclusions are, is to the extent to which the Executive  
23 branch disputes your conclusions. You have used their numbers. I would like to know  
24 whether or not they dispute your conclusions, to the extent to which you--Mr. Beach is  
25 here. He can speak for himself. But this is rather significant.

26  
27 COUNCIL PRESIDENT ANDREWS:

28 And we do have the Executive's representatives here, so please go ahead and introduce  
29 yourself first before responding so that viewers know who you are.

30  
31 JOE BEACH:

32 Good morning. Joseph Beach, director, Office of Management and Budget. We agree with  
33 you, Mr. Berliner--this is an excellent report, characteristic of OLO. They worked with us in  
34 a very collegial and professional manner. We--you know, we always appreciate that. We--  
35 as to the OLO report itself, we concur with their conclusion, certainly on the-- or their  
36 findings on the furlough program and the buyout program, with one exception, and it's an  
37 important exception, and that is having to do with their assumption on when positions that  
38 were abolished would be refilled. Their approach, their recommended approach, which is  
39 consistent with other audits conducted on programs in other jurisdictions, would be to  
40 assume for normal two years, they would be refilled, and for early retirement, they would  
41 be refilled within 4 years. We disagree with that assumption. Our feeling is, in the absence



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1 of the RIP program, those positions would not have been abolished. Ordinarily, OMB does  
2 not know a position becomes vacated from a retirement. We certainly do not have any  
3 jurisdiction to go in and abolish those positions. So while their approach is consistent with  
4 an audit methodology, we did not find that it was consistent with the operational practices  
5 of the County government. Our feeling was, the RIP program which the Executive  
6 recommended, the Council approved, last year, created the forum and the process to  
7 identify those additional savings from the abolishment of those positions--I believe it was  
8 54 positions--and our intention was not within two years or 4 years or ever to refill those  
9 positions. So we would certainly count them for a longer period. I believe it's noted within  
10 the report, and we do appreciate that, that if you change those assumptions from two and  
11 4 years to 4 and 6 years upon refill, it's almost break even. Our assumption was we were  
12 going to keep those positions not filled indefinitely. So it's a very important assumption. I  
13 think we've talked about that in detail, and we just respectfully disagree. But it really does  
14 change the conclusion you would make about the fiscal impact of a RIP. Wes, I don't  
15 know if you have anything to add to that, but...

16  
17 KAREN ORLANSKY:

18 We did run the 5-5 for 2009, and that's the numbers that we have-- the 5 years.

19  
20 COUNCIL VICE PRESIDENT BERLINER:

21 I'm going to need you to both speak up as well as for someone like myself who was not  
22 privy to the briefing before MFP Committee, for you to speak to the significance of Mr.  
23 Beach's point and how you believe you have responded to it, if at all, and the order of  
24 magnitude, because if I understand Mr. Beach correctly, if you make this one change in  
25 assumption, you get to a break-even point. So, one, what empirical evidence is there with  
26 respect to whose assumption is correct? Is this, quote, from an audit manual, if you will,  
27 that's unrelated to the real world, or do we have real-world experience to draw upon in  
28 Montgomery County? And if so, what is that real-world experience, and how do you  
29 respond to Mr. Beach's contention that your estimate is not consistent with the real world?  
30 Is it--do I--is that a fair characterization, Mr. Beach, that this is, quote, consistent with audit  
31 principles but not with your experience or expectations?

32  
33 JOE BEACH:

34 I would say it's consistent with the practice of other audits, of RIP programs in other  
35 jurisdictions. I'm not going to say it's an audit principle, but certainly consistent with an  
36 approach, but it certainly doesn't seem consistent with the operational practice within the  
37 County government, at least as I've seen it.

38  
39 KAREN ORLANSKY:

40 I'm just going to turn it over to Aron to talk a little bit about the methodology and what  
41 you're deciding when you make what we call the 5-5 versus the 2-4. But this is why, in the



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1 2009 analysis, which is the program before you for a decision now, we wanted to reduce  
2 the, you know, "Which analyst do you want to believe more?" and that's why we did the  
3 numbers using the 5-5 assumption, the OMB assumption, and that's where you still see  
4 the loss of \$17.1 million over 10 years. If you use the other one, it is \$20 million over 10  
5 years. So really, in what you have before you now, there is a difference in sort of the  
6 preferred method, but the conclusion is the same.

7  
8 COUNCIL VICE PRESIDENT BERLINER:

9 OK, well, then there's a fundamental disagreement, at least as I understood Mr. Beach's--  
10 the import of what Mr. Beach said, that he didn't accept that a 5-5--one, do you accept that  
11 a 5-5 is your assumption, Mr. Beach-- that that is the more relevant practice, that that's...

12  
13 WES GIRLING:

14 I'm Wes Girling. I'm the benefits manager in OHR. 5-5 is probably, in our mind, a little bit  
15 more reasonable assumption. Basically, what we're talking about is whether people would  
16 have retired absent the incent--excuse me-- the incentive program. We don't know what  
17 they would have done.

18  
19 COUNCIL VICE PRESIDENT BERLINER:

20 But did you accept the 5-5 methodology?

21  
22 WES GIRLING:

23 I think it's a fair assessment, because we know that people are delaying retirement  
24 decisions. There's information in the newspapers daily about the fact that people can't  
25 afford to retire. They're waiting longer to retire. So we think that that influences, at least to  
26 some degree, what would have happened if we did not have an incentive program.

27  
28 COUNCIL VICE PRESIDENT BERLINER:

29 So my question to you then, is, if you accept their 5-5 being a reasonable approach--as I  
30 understood Miss Orlansky, she said that a 5-5 approach means we lose \$17 million, and  
31 as I understood Mr. Beach, he thought that using a, quote, reasonable estimate would  
32 make this a break-even proposition. Did I misunderstand you, Mr. Beach?

33  
34 JOE BEACH:

35 I was speaking relative to the OLO report, which is based on the 2008 RIP. And the \$17  
36 million you're referencing refers to an analysis of the 2009 RIP. Is that correct?

37  
38 ARON TROMBKA:

39 That is correct. That is correct.

40  
41 COUNCIL VICE PRESIDENT BERLINER:





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1 And do you dispute that using that 5-5, then, which you've con--have said is a reasonable  
2 number, will result in a \$17 million net cost?

3  
4 WES GIRLING:

5 Well, again, now, the key to the--the next assumption is, what happens with position  
6 abolishments. The \$17 million cost is if 10% of the positions are abolished.

7  
8 COUNCIL VICE PRESIDENT BERLINER:

9 Which was your estimate, as I understood it--the maximum. That was the high end of your  
10 estimate. It was from zero to 10%, as I understood OLO's report, that that was--they used  
11 your number.

12  
13 WES GIRLING:

14 That's correct.

15  
16 JOE BEACH:

17 Right, but could I say one thing about this? The retirement incentive program for 2009 that  
18 we're recommending has a somewhat different purpose than what we recommended in  
19 2008. One of the purposes of the 2009 RIP is to create vacancies so that individuals in  
20 filled positions that we're abolishing as part of the budget could be placed into as a part of  
21 that. So even if we were to--so that's a difference between last year's program and this  
22 year's program. 10% was not the maximum. We thought it was a very conservative  
23 assumption. Certainly, we're going to look --we've already established a process for  
24 reviewing all the positions vacated--that will be vacated as part of the 2009 RIP and  
25 looking for as many of those positions as possible to abolish. We have to work with our  
26 department heads in doing that. We don't want to impair services. We don't want to overly  
27 burden these departments. But 10% is not the minimum. We certainly want to accomplish  
28 more than that, but I don't want to communicate to the Council--I don't want to create false  
29 expectations about what we might be able to accomplish since this program has a  
30 distinctly--a difference from last year's program, that being, creating vacancies to place  
31 RIF'ed employees into to avoid putting somebody off onto the street.

32  
33 COUNCIL VICE PRESIDENT BERLINER:

34 Miss Orlansky, did you care to respond?

35  
36 KAREN ORLANSKY:

37 Well, the only thing I would just say is the same point I made earlier, which is that if, in the  
38 end, you end up having to abolish the buyout-vacated positions to make this program cost  
39 effective, you may be downsizing parts of your government that, again, have not been  
40 strategically thought through going in, because it's going to depend on where the folks  
41 have the seniority that are eligible and have the personal, at this point and time in their

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1 life, it's time to move on--this 40,000 is the right incentive, and all of that--as opposed to a  
2 decision going in about where you want to downsize. It's the random approach versus a  
3 more targeted buyout approach. A buyout can be an extraordinarily useful tool for  
4 downsizing and organization. You see examples of that all over the country. But it's done  
5 with thought about where you want to abolish before you offer.

6  
7 COUNCIL VICE PRESIDENT BERLINER:  
8 Thank you, Mr. President.

9  
10 COUNCIL PRESIDENT ANDREWS:  
11 OK. Thank you. Our next speaker is Councilmember Leventhal. I'm sorry--yes, it is. Will  
12 you--did you have your light on? I'm sorry. Something happened with the order.  
13 Councilmember Knapp, then Councilmember Leventhal.

14  
15 COUNCILMEMBER KNAPP:  
16 Thank you, Mr. President. Thank you for a very enlightening report. I have just a couple of  
17 questions from both, and then some remarks. Mr. Trombka, you kind of--in your last point,  
18 you were talking about the notion of vacancies and keeping that in mind and filling  
19 positions. I just wanted to--I didn't understand what points you were trying to actually  
20 make with that, and I just wanted to make sure I understood that before...

21  
22 ARON TROMBKA:  
23 I'm actually going to defer to Mr. Drummer on the point from his packet about the--

24  
25 KAREN ORLANSKY:  
26 It started out-- that started out as 234. Now it's down to less than 100.

27  
28 COUNCILMEMBER KNAPP:  
29 Right. I just wanted to make sure I understood that before--and the significance of that.

30  
31 ROBERT DRUMMER:  
32 Bob Drummer, Council staff. The point just is that if you're using the RIP to create  
33 vacancies for the people who are going to be laid off, you need to know the number of  
34 people that are still subject to being laid off because there are no positions for them is  
35 dropped down from 234 to 45 full-time people and 48 part-time bus drivers. Because the  
36 Office of Human Resources has been working hard --there's been a hiring freeze for the  
37 past year, and they've had vacancies, and they've been working hard to try and find other  
38 positions for people. That's the point.

39  
40 COUNCILMEMBER KNAPP:



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1 No, that's not--thank you. I appreciate the clarification. And so then just--is that, in fact, the  
2 strategy with the retirement incentive program? I had heard--I didn't hear that initially, and  
3 then I heard that stated after the fact. So is that--was that a stated objective of this  
4 retirement incentive program?

5  
6 WES GIRLING:

7 Yes, it was. One of the things that we're trying to do is to create a soft way to be able to  
8 vacate positions and allow for the placement of folks who would otherwise be RIF'ed, and  
9 as Mr. Drummer points out, there is no direct linkage, as Karen points out, with a targeted  
10 plan, but the hope was to be able to place as many RIFees...

11  
12 COUNCILMEMBER KNAPP:

13 The hope was. Got it.

14  
15 WES GIRLING:

16 ...into the positions that were vacated or similar positions.

17  
18 COUNCIL PRESIDENT ANDREWS:

19 Councilmember Knapp, our staff director has a comment on that.

20  
21 STEPHEN FARBER:

22 Just one point to add to what Mr. Drummer said. There are 45 positions remaining to be  
23 filled apart from the part-time bus operators. OHR has done a terrific job, as it has in the  
24 past, in placing people, but the other important fact is that there are 200 vacant positions  
25 in which those 45 RIF'ed employees may have an opportunity to be placed. In other  
26 words, there really are almost--what, is it 5 times as many vacant positions that are there  
27 right now. And if that's the case, then the rationale for having a buyout program to place  
28 RIF'ed employees perhaps does not materialize.

29  
30 COUNCILMEMBER KNAPP:

31 All right. OK. Thank you. And then, Mr. Beach, you'd made a comment which I thought  
32 was intriguing, that OMB would not--and I was trying to scribble it down as you said it, so  
33 you may want to restate it. OMB would not know if a position was vacant from a  
34 retirement?

35  
36 JOE BEACH:

37 What I was trying to say is that in the normal course of business, when a county employee  
38 retires, that's something really only known to that department and to OHR. And the point I  
39 was trying to make is the RIP program gave us the opportunity to view all those retired  
40 positions and view the service needs, the workload, and the opportunity for creating  
41 savings and productivity improvements for it. Normally, those positions just get filled.



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1 Under the RIP program, we had a process for looking at each one of those positions  
2 individually to determine if they needed to be abolished or had to be refilled. Normally, if  
3 someone retires, it's just a personnel matter.

4  
5 COUNCILMEMBER KNAPP:

6 It's a topic, I guess, for another day, but I guess I am somewhat dismayed that our Office  
7 of Management and Budget wouldn't know the positions vacant as a result of retirements  
8 at any given point in time.

9  
10 JOE BEACH:

11 We know vacancies. We certainly track that and look at that. But when an employee  
12 retires as part of that vacancy--when they do it, the timing, is not something that, you  
13 know, is known to us in the normal course of business. It's really an HR matter.

14  
15 COUNCILMEMBER KNAPP:

16 Why--

17  
18 JOE BEACH:

19 I mean, we do not control retirements.

20  
21 COUNCILMEMBER KNAPP:

22 But you don't have some tracking as to when people--I mean, this is off topic, but this is  
23 clearly a point we'll have to get to another day. The Office of Management and Budget  
24 isn't tracking retirements and vacant positions as a result of that to know what we're  
25 seeing at any point in time in County government?

26  
27 JOE BEACH:

28 OMB certainly looks at vacant positions, but when an employee retires, that's an individual  
29 personal decision, and the refilling--

30  
31 COUNCILMEMBER KNAPP:

32 I appreciate the decision, but--

33  
34 JOE BEACH:

35 Excuse me. But the refilling of that position is within the authority normally--absent a  
36 direction from the CAO, is within the authority of that County department head.

37  
38 COUNCILMEMBER KNAPP:

39 I'm not questioning the authority. I'm just--the fact that we should be tracking this  
40 information so we generally know at any point in time what our County workforce looks  
41 like.

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1  
2 JOE BEACH:

3 That is done. We do have--our systems-- our position control system does track the  
4 number of vacancies. That's information available to us.  
5

6 COUNCILMEMBER KNAPP:

7 All right. We'll have to come back to that one, but... When the RIP program was put out  
8 there--structured, negotiated--what--I mean, one of the things I heard very clearly from  
9 OLO is that as part of a strategic plan, this could make sense. But given the vacancies,  
10 given the hiring freezes, given the fact that we have what's a random buyout--is that what  
11 it is, a random buyout? --effectively, we're stuck with a position that we don't know who's  
12 going to retire. So we had 150 people retire, and if that--then we froze some positions  
13 after that or we've done something else, what if they're in key positions? How do we then,  
14 as a County government, reassess what positions we need to actually have County  
15 government function well and then make sure those positions are filled, in light of what  
16 has just been presented to us?  
17

18 JOE BEACH:

19 There is--there will be a process, similar to last year.  
20

21 COUNCILMEMBER KNAPP:

22 But wait, wait.  
23

24 JOE BEACH:

25 I'm sorry.  
26

27 COUNCILMEMBER KNAPP:

28 We've done this once, so what is the process?  
29

30 JOE BEACH:

31 The process is, there's a panel of the HR Director, myself, and assistant chief  
32 administrative officer who review the vacated positions. The department heads make a  
33 proposal for refilling or abolishing a portion of those positions, and they provide  
34 justification based on service needs, workloads, and we make an assessment based on  
35 that what positions should be filled, whether they should be exempted from the hiring  
36 freeze, et cetera.  
37

38 COUNCILMEMBER KNAPP:

39 Is there a fiscal analysis that accompanies that assessment?  
40

41 JOE BEACH:



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1 You mean after the decisions are made?

2  
3 COUNCILMEMBER KNAPP:

4 Or to help govern how those decisions would be made. Presumably, if you're determining-  
5 -if you've got 150 positions that range across the spectrum, some are obviously going to  
6 be higher paying, some are going to be lower paying, some are going to be key strategic  
7 positions, so some cost-benefit analysis that we can then look at to say, "Here's the  
8 tradeoff that we're making--that we may need to fill these positions, but if it's going to cost  
9 us more money from what we thought we were saving from a buyout package..." Do we  
10 have that kind of an assessment?

11  
12 JOE BEACH:

13 Well, certainly, we would make all the decisions in reference to at least meeting the goals  
14 of the retirement incentive program as--that are in the Executive's recommended budget.  
15 Hopefully, the Council will support that. And for any additional savings, yes, there's a cost-  
16 benefit analysis that would accompany that as well.

17  
18 COUNCILMEMBER KNAPP:

19 So since we've already done this once, could we get a copy of the analysis or the  
20 assessment that was done last year to refill those positions?

21  
22 JOE BEACH:

23 I believe we've already provided that to OLO.

24  
25 KAREN ORLANSKY:

26 Not on a position--

27  
28 JOE BEACH:

29 Not on a position-by-position basis. Oh, I thought sort of the--

30  
31 KAREN ORLANSKY:

32 Mr. Knapp seems to be talking about on a position-by-position basis.

33  
34 COUNCILMEMBER KNAPP:

35 No. Yeah. What you're saying is, we've gone back, and we actually have a conscious  
36 process by how we refill positions to make sure that key positions are then filled and  
37 somehow also reflect the savings that we're trying to accomplish, and so I just wanted to  
38 see, since we've done this once, if we could get a sense of--if we could get a copy of the  
39 analysis that was done last year so we can figure out what was--what went into the  
40 decisions to make those-- refill the positions last year.



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1 JOE BEACH:

2 Sure. I'll have to go into the work papers and find those for you.

4 COUNCILMEMBER KNAPP:

5 I'd appreciate that. And then, I guess my final point is, given the fact that as we've looked  
6 at the two scenarios that have been presented to us by OLO-- and Mr. Girling, I think, has  
7 indicated that probably the 5-5 is a fairly real-world approach--late last night-- I don't know  
8 when it came over. I read about it in the paper this morning. We had a memo that was  
9 sent over from the Executive branch as it relates to trying to close the remaining budget  
10 gap, which--part of which will be for--a subject for another day. But there's the...one, two,  
11 3, 4, fifth paragraph talks about, "Because we're projecting an FY11 budget gap of over  
12 370 million with continuing stagnation in our property, income, and transfer and  
13 recordation taxes, and the state is projecting a gap of over one billion, we strongly  
14 encourage the Council to accept these recommendations and not support further  
15 spending increases in FY10. Any additional resource identified in the Council's review of  
16 the operating budget should be used to replenish and strengthen the County's reserves,  
17 not increase spending pressure and exacerbate next year's projected budget gap." Given  
18 the fact that it would seem that the information that's presented by OLO is new  
19 information, how was this-- how will this be characterized in the County Executive's effort  
20 to try and make sure we don't exacerbate next year's budget issues?

22 JOE BEACH:

23 Well, to the extent that we have additional unplanned costs above, you know, we would  
24 have to address that in our actions in the FY10 and FY11 budget, as well.

26 COUNCILMEMBER KNAPP:

27 But you guys didn't even know that we had these unplanned costs until we'd done this  
28 analysis.

30 JOE BEACH:

31 Correct. But, I mean, there's a lot of adjustments we have to make in putting together any  
32 budget, as well, so... There's also, I think, some other benefits to having the RIP program,  
33 as well. But I would acknowledge if there are additional costs that are not in our planning  
34 for FY11, yes, that could create the budgetary gap in FY11.

36 COUNCILMEMBER KNAPP:

37 Yeah. It would appear so. It just seems a bit hollow that when we have this before us  
38 today, for the Executive to send over somewhat of a chastising paragraph suggesting that  
39 we're the ones that are going to exacerbate next year's budget issue when we have  
40 before us a plan that clearly didn't take any of next year's budget issues into account.  
41 Quite distressing. Also, given the fact that we went through what we did last year with the



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1 RIP, were there elements of a strategic plan put in place for this year's RIP as to which  
2 positions we would like to try to see some openings or some vacancies or places that we  
3 thought were positions that we could that we didn't necessarily have to have next year that  
4 would be eligible for abolishing?

5  
6 JOE BEACH:

7 No. I think OLO brought-- has accurately described it. It was open to all employees.

8  
9 COUNCILMEMBER KNAPP:

10 All right. Thank you.

11  
12 GINO RENNE:

13 Mr. Knapp, can I add something to that, being the other party that negotiated this  
14 agreement? I think it's always good to hear from both sides, but that's just me. There was  
15 some strategic thought given to this RIP, and part of it--the thinking was, we need an  
16 immediate reduction in labor costs because we, the union and the Executive, have come  
17 to agreement that we have an unsustainable organization going forward. And we also  
18 both accept the conclusion and the reality that we're going to have to downsize  
19 government, both in the short term and the long term, because the revenues are not  
20 there, short term and long term, to downsize the number of workers that are on the  
21 payroll-- across all agencies. And this RIP was intended and negotiated with the intent to  
22 give the parties some room to realize some immediate labor cost reductions and give us  
23 room to step back after the dust settles and surgically analyze where this--what this  
24 workforce needs to look like going forward to meet what I call the core demands and  
25 obligations of this government. Over the 33 years that I've been around, I have seen this  
26 government expand into, we're going to please all parties with all sorts of bells and  
27 whistles, and we no longer have the luxury of doing that. We got to get back to the basics--  
28 -public transportation, public safety, public health, fire and rescue, and those core duties.  
29 But we expanded far beyond the core, and we cannot afford to continue. I disagree with  
30 some of the Councilmembers on a lot of issues, but I do not disagree with any  
31 Councilmembers on that reality. And we've all had those discussions collectively and  
32 individually. And this was an attempt by the parties--I always like to hear the numbers  
33 people hash it out, but no one really steps back and asks the fundamental question--  
34 what's the intent of what we're talking about today? And the intent was to give the parties  
35 some breathing room, because at the end of the day, we're the ones charged with  
36 delivering the services. And we believe--and that's hence the reason why we expanded  
37 public safety, because we knew--I'll just give you a quick example about some of the  
38 strategic thinking. We knew that there's a bubble of officers, sworn personnel in public  
39 safety, that are ready to go, and it made sense to offer it to those folks because if they go,  
40 they're still young enough to move on and do something else with their lives, so we felt





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1 that offering a incentive would entice them to leave and go on with their lives. And then we  
2 could come back and refill those positions at a much lower rate.

3  
4 COUNCILMEMBER KNAPP:

5 And I appreciate what you are articulating, and I--I'm glad that at least one of the parties to  
6 the discussion recognizes that there was an element of strategy associated with at least  
7 part of the decisions. My concern is that the element of County government that's  
8 responsible for actually implementing the actual pieces couldn't articulate that same  
9 strategy and that same vision. And that's the part I'm struggling with.

10  
11 JOE BEACH:

12 Excuse me. I'd like to say something to that, Mr. Knapp, is, your question was relative to  
13 specific occupational class categories, not to the overall intention. Obviously, I agree with  
14 Mr. Renne. The point was cost savings in FY10, but whether that was targeted toward  
15 specific job categories, no, it was not. And I think Mr. Renne would agree with that, as  
16 well. So that element of a strategy--

17  
18 GINO RENNE:

19 That's right, and it--that--targeting-- Let me just say, because, you know, I've been  
20 negotiating contracts for 28 years, and I think been a useful partner with this employer and  
21 this Council in trying to help balance this budget, because over the years, our members  
22 have made a lot of sacrifices in key areas to help achieve that goal. And targeting  
23 positions, in my opinion, is not the best approach. It's getting your highest-paid folks out of  
24 the system, period. That is the intent of any incentive plan that is negotiated in the public  
25 or private sector, period. It's to reduce your labor cost. And I continue to hear all this  
26 debate about this, that, and the other. At the end of the day, the goal is to reduce your  
27 labor cost, period--get people off the payroll. And you want to open it up to the largest  
28 number of your highest-paid employees to do that so you get the numbers. You start  
29 doing surgical, per-job-class targeted, you're not going to get the numbers, and you're not  
30 going to reduce your labor cost. Now, that said, what isn't-- you know, I wish sometimes I  
31 were asked to make the presentation because I think I would present you a full puzzle  
32 with all the pieces in it. What's being left out of this debate is what happens next.

33  
34 COUNCILMEMBER KNAPP:

35 Well, and in fairness, we're not having a debate yet. We're trying to understand the pieces  
36 and figure out what it is--what decisions we're actually going to make.

37  
38 GINO RENNE:

39 I understand that, but I'm just urging the Council to look all the pieces in front of you and  
40 not single out a single piece and then get fixated on that. There is more to this agreement  
41 that, if applied appropriately, will achieve the goals that both the Executive, the union, and



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1 the Council want to achieve--lowering the cost of government, because that's what we're  
2 about.

3  
4 COUNCILMEMBER KNAPP:

5 Yeah. And I appreciate that, and I am hopeful that we can get to that point over the course  
6 of the next 4 to 5 weeks.

7  
8 GINO RENNE:

9 OK. I'm sure we will. Thank you.

10  
11 COUNCIL PRESIDENT ANDREWS:

12 All right. Well, it seems we have agreement, and the goal is to reduce labor costs, and the  
13 question is, will this? And that's what the OLO report is all about. Councilmember  
14 Leventhal is next.

15  
16 COUNCILMEMBER LEVENTHAL:

17 I'm always glad to get input from both parties to negotiation, but I do need to request that  
18 when the Council is in session and Councilmembers have questions, Councilmembers'  
19 questions direct that question-and-answer portion because otherwise it's not going to be in  
20 order for people to address the Council. The Council needs to keep control over the  
21 Council's q-and-a portion of the Council's agenda. Now, I want to refer back to a Consent  
22 Calendar item, and that's Agenda Item 2A. This is coming very much into clear focus, not  
23 only because the OLO has done an excellent report--and, you know, I've said before the  
24 obligatory, "Kiss, kiss, kiss to OLO. We always appreciate their excellent work." But for the  
25 first time since I've been here, we're going to have a significant number of  
26 Councilmembers raising questions about whether to approve the--not the first time, no--  
27 but anyway, we're going to have a significant-- it's not at all clear that the contracts that  
28 have been negotiated are going to pass this Council. It's not at all clear where the votes  
29 are, and it's, frankly, not at all clear what the Council's authority is, because I've been  
30 reading the staff's packet, although--you know, we use these dialogues. We're all very,  
31 very busy. We try as best we can to do our homework, keep up with our reading, but we  
32 use this, these conversations and these briefings, to highlight the issues for us. So I have  
33 not delved into the depth that I'm going to need to delve into in absorbing the information  
34 we've got in front of the Council staff and then also absorbing the message that I saw  
35 yesterday from MCGEO's attorney, which calls into some question what the Council's  
36 actual authority is. I have Mr. Faden's memo here on Agenda Item 2A, which states that  
37 "the Council is not bound by the agreement on those matters over which the Council has  
38 final approval and has appropriations authority, and the Council may address contract  
39 items individually rather than on an all-or-nothing basis." I suspect--I'm not calling out any  
40 names. I respect all of my colleagues, and we're all elected officials, and we have a public  
41 trust, and we're going to raise those issues that we feel strongly about. I suspect that this



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1 year, more than in prior years, we're going to be addressing contract items in some  
2 greater detail and probably with a higher level of controversy and perhaps emotion. And in  
3 that regard, I appreciate Karen Orlansky's efforts to be objective, and she started out  
4 stating that she didn't come to this with an --she and her able staff of analysts did not  
5 come to this with an ax to grind, and I believe that. It's not going to be pretty, the  
6 conversation that's going to play out over the next several weeks. We've just extended our  
7 deadline to May 15, but May 15 is right around the corner, and so--so this is a bargained  
8 item, these potential buyouts, and I'm glad Marc Hansen's here because I think we need  
9 some help from the County attorney, who works for us and who works for management--  
10 management who negotiated these contracts. I don't know where we're going to end up. I  
11 don't know if we're going to end up in the place, again, addressed in Mike Faden's memo  
12 on Agenda Item 2A, whereby "if the Council indicates its intention to reject or opts not to  
13 fund any item, it must designate a representative to meet with the parties and present the  
14 Council's views in their further negotiations." Just sitting here, with great respect for all my  
15 colleagues, with great respect for our able Council staff, it's very hard for me to see how 8  
16 Councilmembers are going to agree on that representative. Sitting here, right now, today, I  
17 don't see how that's going to occur. So we're in some uncharted territory, and we need  
18 some clarity as to precisely what was negotiated, precisely what rights employees have,  
19 and then precisely how is management going to address the filling of vacancies once they  
20 arise as a result of these buyouts. And to get back to the exchange between  
21 Councilmember Knapp and Mr. Beach, you have access to retirement data. When I say  
22 that you control OHR, I don't mean you control individual people's decisions to retire, but  
23 you know when they've filed for retirement, or at least you can find out, because OHR is  
24 part of County government, and you are the Office of Management and Budget. So you do  
25 have access to data, not just when a vacancy arises --you know whether it's arisen. You  
26 know the age of the employee. You know whether the employee has filed for a pension.  
27 You know what type of pension. You know when they started and so whether they're  
28 under a defined benefit plan or a defined contribution plan. You do have access to all that  
29 information. So it's just not at all correct to say, "We have no idea. All we know is that  
30 there's a vacancy, and it's up to the department head to figure out how and when and  
31 whether it should be filled." That's just not accurate. You have access to much more data  
32 than that. And so, to highlight what Mr. Knapp is suggesting, I think-- it is obviously going  
33 to come into play, and this conversation has come into play. If we are to approve these  
34 negotiated items, we are going to need to understand how, in fact, they're going to be  
35 implemented. I don't want to be just redundant, because Mr. Knapp was very articulate,  
36 but we've got to have a sense that management does indeed have a strategic approach  
37 and has thought through the consequences--if A, then B. Now, Mr. Farber asserted that  
38 the purpose of this--and Mr. Renne also asserted--that the purpose of this was a strategic  
39 approach that would try to create opportunities for people who are RIF'ed and would try to  
40 reduce the workforce overall. I have respect--great respect for both of those gentlemen. I  
41 think there were other purposes. I think the other purposes were more along the lines of



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1 what Mr. Girling said, that it was supposed to provide a soft landing for people who  
2 otherwise would lose their jobs. And there's nothing wrong with that. That's a perfectly  
3 appropriate purpose. But based on this conversation, I'm kind of skeptical that anyone had  
4 done the cost analysis that OLO has now done, and with great respect for Mr. Renne, who  
5 I do very much respect, the assertion that we're going to replace higher-paid workers with  
6 lower-paid workers and achieve a savings is specifically rebutted by this OLO report.  
7 That's not what OLO's findings show, and we have to have confidence in OLO, and we  
8 have to have confidence in their objectivity. So to wrap all this up, what I am asking for  
9 from the County Attorney is the County Attorney's analysis. We've already seen the  
10 Council staff's analysis. And--you know, we have an excellent staff. There are going to be  
11 accusations on all sides that various parties to this, both in management and in the  
12 employee organizations and on the Council staff and on the Council, have an ax to grind.  
13 And with all respect, I am going to ask the County Attorney to review the question and  
14 provide for the Council a very clear primer, a very clear manual, on what is the Council's  
15 authority and then walk us through these steps, because I need to understand what has  
16 been negotiated, I need to understand what rights management has, I need to understand  
17 what rights labor has, and then I personally-- I'm going to have to make a judgment as to  
18 whether to raise my hand and vote for the whole contract, parts of the contract. I  
19 anticipate there will be debate. Seems like. A much more lengthy and in-depth debate  
20 than we've ever --than I've seen before on contracts. And so, we need to understand our  
21 legal authority, and I'm requesting that the County Attorney review the exchange of  
22 correspondence--that is, MCGEO's message that we got yesterday in response to Mr.  
23 Drummer's memorandum to the MFP Committee. So, I need more information. I  
24 understand everything that's been said here. But I'm going to have to raise my hand and  
25 vote for a contract or not, or pieces of it or not, and our authority to do that is being  
26 brought into question, and the specifics of the contract are being brought into question.

27  
28 COUNCIL PRESIDENT ANDREWS:

29 OK. Thank you, Councilmember Leventhal. Councilmember Elrich.

30  
31 COUNCILMEMBER ELRICH:

32 It would have been nice had concern about future implications for spending and budgets  
33 been applied to the last 8 years of the Duncan regime, as they are here, because we're  
34 dealing with a mess of total lack of accountability in many areas, and we're left with a  
35 mess of spending that, as Gino has correctly said, way outstretches our means, that was  
36 easily predictable, that anybody who understood normal cycles of business would have  
37 said, "You're going to hit a recession sooner or later, and the budgets you've created are  
38 unsustainable." But we find lots of focus on the imperfections of this current Executive and  
39 actually no accountability for 8 years, or 12 years, of what brought us to this state. So, you  
40 know, we can have our righteous indignation, but the reality is, we've got a pretty serious  
41 problem here. And I really appreciate your comments, Gino, about where you --I have to



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1 say that, to this point, you're almost alone among your colleagues in expressing the real  
2 view that we're in a really deep structural problem that's going to require a structural  
3 alignment, and I hope that your message can become labor's message, because we really  
4 do need cooperation in making some of the decisions that we're going to make. But I  
5 appreciate what you said. I also appreciate you answering the question. I mean, if we're  
6 going to direct this questioning, who we choose to let answer the questions is going to  
7 change the perceptions of what information we have and our decisionmaking. So maybe  
8 nobody called on Gino, but Gino, as he rightly said, is a party to this bargaining, and it's  
9 perfectly legitimate for him to make a comment on things we're discussing, so I'm glad you  
10 spoke up, even if nobody specifically called on you to do so. I think it's useful. I have  
11 concerns. I mean, I don't disagree with George that we're going to have some really  
12 difficult votes to make and understanding what makes sense and what doesn't make  
13 sense requires more analysis, and I appreciate the OLO report and things that concern  
14 me. And you talked about it's better to get rid of the high-paid people rather than look at it  
15 structurally, but don't you worry that if we just get rid of the highest-paid person in a  
16 category, and if that takes out somebody who is structurally important, you don't replace  
17 them, doesn't that have implications?

18  
19 GINO RENNE:

20 It could, but you could also look at restructuring how the work is delivered. It's not always  
21 about how many positions you have. It's more about how do you do the work and what is  
22 your business model. The problem is--and I'm going to be critical of both the union and the  
23 Executive, dating back a lot of years--we've never sat down and collaborated over what  
24 our business model should look like. We don't have a strategic plan. And we have, for the  
25 33 years that I've been around this government, been reactionary. When we have plenty  
26 of money, we find more bells and whistles to buy. When we don't have plenty of money,  
27 we run around, "The sky is falling. Oh, God. We have an unsustainable structure." That's  
28 a insane way to run an organization. Insane. Corporate America doesn't run their  
29 businesses--well, I shouldn't say that, because there have been a lot--let me strike that  
30 from the record. Well, let me say this. I'm on the executive board of an international--one  
31 of the largest international unions. Let me use this as a comparison. We represent 1.5  
32 million people, both in Canada and the United States. We have a governing board of 40  
33 elected vice presidents and 5 executive committee folks. We have a yearly executive  
34 board meeting every year, and we spend a year putting together both a short-term and a  
35 long-term strategic plan. And we work the plan. The problem here is, we don't have a  
36 plan. So we end up fighting one another on trying to achieve a balanced budget, and  
37 we're relatively all friends or colleagues. But every time the budget cycle comes up, we're  
38 posturing, we're fighting, we're arguing, and who suffers for that approach? The taxpayers  
39 suffer, and the workforce suffers. It's an insane way of running a government. Now, you  
40 know, going back to what I was trying to say earlier, there's a big puzzle in front of you of  
41 how we get there, and one of the biggest pieces of the puzzle--and I have to acknowledge



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1 and give credit to Councilmember Trachtenberg on this, because she made a lot of public-  
2 - brought a lot of public attention to the need of this. It took me since 1986 to finally  
3 negotiate and mandate a collaborative process with the Executive to look at the cost  
4 effectiveness of government. How many years has that been? But I'm persistent. And I  
5 finally got it done. And if you take a look at the structure of that committee and the  
6 mandates of that committee, you'll see that we are going to look at every penny that's  
7 being spent, the total structure of the government, contracting out all the things that make  
8 this government work. And my intent is try to craft a business model going forward that is,  
9 one, sustainable, two, maintains the quality of services our members are mandated to  
10 deliver, and hopefully avoids future bickering and struggling that we've been engaged in in  
11 the last couple of years over balancing the budgets. Now, I would--I can only make  
12 recommendations to you. That's part of the labor agreement. This union stepped out of  
13 shadows and demanded that be part of our agreement going forward, and my members  
14 should be given significant credit for accepting that and supporting that approach. I would  
15 recommend that Council pay particular attention to that committee and potentially demand  
16 the parties to get involved in their work immediately and come back to this Council in a  
17 defined time period with our preliminary recommendations, and let's have a collaborative  
18 conversation going forward on what we will --what the organization looks like going  
19 forward so we can deliver the services the taxpayers pay for. That's our interest. Our  
20 interest is not to fight with you folks.

21  
22 COUNCILMEMBER ELRICH:

23 I must say that, you know, I've tried to push the structural issue for probably going on two  
24 years now, and I think that we need to address it, and I appreciate the committee that's  
25 being created, and I appreciate the comments you've made. I've talked with numerous  
26 department heads. It is very difficult to deal with the vacancies they have, the budgets  
27 they have, the cuts they have, and then say, "And by the way, I'd like you to rethink how  
28 you run your department in your spare time and come with an alternate-- alternative  
29 organizational structure." I find that very difficult, and I think we need to bring in some  
30 additional outside help-- people who do enterprise-- what they call--the new fancy word is,  
31 what, "enterprise engineers" or "enterprise architects"--whatever the word is for the day,  
32 but people used to come in and do management studies and actually look at our  
33 structures and rearrange things. George and I have talked about sponsoring a bill that  
34 would put all the economic development under Economic Development. We're trying to  
35 push forward with an OLO recommendation to consolidate recreation programming. I think  
36 there's an appetite for reorganizing things, but we have to reorganize things, and my  
37 concern with what's proposed is that it's got to be followed up with not just that we've  
38 made this short-term savings-- you know, you get us out of this one-year. I understand  
39 trading off one year and it has some down-the-line expenses, on the assumption that  
40 what's done in the ensuing year is an effort to go deeper and make some more  
41 fundamental structural changes. We need breathing room right now. I can deal with



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1 breathing room under the assumption that all of us understand that next year, there's  
2 probably going to be more things that are going to get cut and there are going to be more  
3 fundamental changes, and the number of, you know, work units--may well lose people,  
4 but that's all going to be part of making this place more sustainable. And I think that--you  
5 know, that's not a bad deal if it gets us to the point of being able to do that. But I think  
6 we've really got to fundamentally relook at what we do and we've got to adopt an attitude  
7 that, you know--you know, you don't want the economy to recover tomorrow and people to  
8 decide, "How much money can we spend?" because the money is flowing in again,  
9 because sure enough, 4 years from now, we'll be back in the same box again, and I don't  
10 think that's any way to run a government. So I'm--I want to get more information, I'd like to  
11 get comfortable, but I'd really like the Executive to come forward with a plan to be able to  
12 tell us what you will do in the next year to analyze--not that a committee of 3 people will  
13 get together and look at a position that comes vacant and decide what you're going to do  
14 with it, because unless you look at the whole structure of the enterprise itself, you may  
15 have no choice but to fill that position. Your flexibility in any one individual position is going  
16 to come at how you look at the organization. So I'm going to encourage you to do  
17 everything you can to look at the organizations, particularly the big ones--I mean, and try  
18 to deal with it. I want an end to the discussion of the silos. I mean, this has gone on too  
19 long. There's got to be a coordinated plan change, and we're looking to the administration  
20 to lead it. I mean, the committee is not going to do it by itself. There's going to have to be  
21 leadership from the administration to do that. And no one has done it before, so this is  
22 great ground-breaking opportunity for you all to do it, so I'm urging you, please do it.

23  
24 COUNCIL PRESIDENT ANDREWS:

25 OK. Thank you, Councilmember Elrich. Councilmember Trachtenberg.

26  
27 COUNCILMEMBER TRACHTENBERG:

28 Thank you, President Andrews. Well, yesterday's conversation on the report and the  
29 proposed legislation was enlightening. I would say that this morning's conversation is  
30 somewhat encouraging, and I would hope that tomorrow's conversation will be  
31 empowering. You know, I can only speak for myself, but it's always been my perspective  
32 that the conversations and the subsequent decisions that I have to make on these serious  
33 kinds of issues really don't reflect any ax to grind politically, but really just reflect what my  
34 judgment is about what's in the best interest of the general public, and I know that there is  
35 a sincere interest on this body to do exactly that. I appreciate the remarks of our union  
36 leader who's sitting here this morning. He knows perfectly well that I've raised issues  
37 about restructuring. It's my belief, and I've said this publicly and privately, that rightsizing  
38 of our government is probably vital to whatever we can do to meet fiscal challenges today,  
39 and those that we face tomorrow. That's precisely why, several months back, I had raised  
40 the issue of a labor management initiative, and I'm still hoping, despite our inability to  
41 really advance such a concept this year, down the road, we'll be able to do it--



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1 constructively, because I do believe that civilized and collaborative dialogue and  
2 decisionmaking is what needs to happen in order to make the hard decisions that are  
3 required--although I vaguely remember last year at about this time, I would hardly call  
4 some of the conversations that occurred to be civilized. But I don't hold grudges, and I'm  
5 hopeful again this year, given the gravity of what we face, we're not going to face those  
6 kinds of conversations over the course of the next few weeks. The one request I would  
7 have from the Executive branch--we are revisiting Expedited Bill 10-09 on the retirement  
8 incentive program this Thursday within Management and Fiscal Policy. And I don't know if  
9 you want to comment, Joe, this morning, but I would hope that we could have some good  
10 definition from you about the actual expense of implementing what's been proposed in  
11 terms of the RIP. I've heard from different parties that there is a cost of one or perhaps  
12 even as high as two million dollars to make that happen, and I think that's an important  
13 piece of information that we need to have before us when the committee makes their  
14 decision, ultimately, and their recommendation to the full Council. In other words, if you  
15 want to comment this morning right now about the actual immediate cost of doing this--or  
16 savings?

17  
18 JOE BEACH:

19 No, nothing in addition to what we've already submitted for FY10 to the Council, but I want  
20 to clarify your question, though. Are you saying people have indicated there is a cost  
21 within FY10 of implementing the RIP?

22  
23 COUNCILMEMBER TRACHTENBERG:

24 Well, potentially--you know, the replacement of positions. In other words, I think--and we  
25 asked questions yesterday within the committee, we need to have a full sense of what the  
26 savings would be and what the cost would be in the short term. And what we were told  
27 yesterday was that there would be a savings of--was it a million dollars?

28  
29 JOE BEACH:

30 Originally, within the Executive's budget, it was a million. We relooked at those figures,  
31 and as part of the budget adjustments we transmitted to the Council, we did increase that  
32 estimate by over an additional two million in savings, yes.

33  
34 COUNCILMEMBER TRACHTENBERG:

35 Right. And so what I'm suggesting to my colleagues here this morning is if--that we don't  
36 implement the RIP as proposed, then that million dollars, in theory, needs to be made up.

37  
38 JOE BEACH:

39 That is correct.

40  
41 COUNCILMEMBER TRACHTENBERG:





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1 Yeah. And so that's-- perhaps I used the wrong words to describe what I was talking  
2 about, but I wanted you to comment on it because that's certainly something that has real  
3 consequence.

4  
5 JOE BEACH:

6 That is correct. There will be savings, we believe, of about--about 2.2 million in FY10 from  
7 the RIP. If that was not approved, that would leave a hole in the budget that the Council  
8 would have to fill.

9  
10 COUNCILMEMBER TRACHTENBERG:

11 And how did the number go to two million from one?

12  
13 JOE BEACH:

14 I believe--I'll have Steve speak to that.

15  
16 COUNCILMEMBER TRACHTENBERG:

17 Because the first memo that I saw outlined the savings as being closer to one million, so I  
18 want to get a sense of how we got to two.

19  
20  
21  
22 ALEXANDRE ESPINOSA:

23 Right. The savings of one million is what was included in the original March recommended  
24 budget. Increased an additional 1.2. Essentially, what was under consideration in early  
25 March when that initial figure was developed was changed, and the changes are reflected  
26 in the legislation before the Council, the changes specifically having to do with the addition  
27 of Group E to participate in the program, as well as the timing of the separations due to  
28 the participation in the program. That was moved from July into June. So as a result of  
29 that timing change, the cost of leave payouts was accelerated, essentially removed from  
30 FY10, which brought down the cost savings as initially recommended in March. That cost,  
31 the leave payouts, moved into FY09, so that's why the FY10 savings is higher than what  
32 was originally recommended in March.

33  
34 COUNCILMEMBER TRACHTENBERG:

35 OK, and I'm assuming we'll have some Executive representatives with us on Thursday  
36 when we revisit the bill...

37  
38 JOE BEACH:

39 Yes, you will.

40  
41 COUNCILMEMBER TRACHTENBERG:



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1 Within MFP? OK. I'm sure I speak for my colleagues when I say we look forward to the  
2 conversation.

3  
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Councilmember Trachtenberg, and to--our final comment from this side will be  
6 from Council Vice President Berliner.

7  
8 COUNCIL VICE PRESIDENT BERLINER:

9 Thank you, Council President. And you had budgeted a half-hour with respect to this  
10 item? I think we have demonstrated this is an important conversation, and I think we've all  
11 been well served by the conversation, quite frankly. Let me tell you my takeaway to make  
12 sure that it's accurate, and if it's not, I would be grateful for your input. What I heard Mr.  
13 Renne say was, don't look at this agreement in isolation; look at it in the context of its  
14 overall intent, and that it is--was to, if you will, buy time, that if you create this objective,  
15 then we will figure out our strategic plan for implementing it. But what people like me have  
16 to do is, we have to vote on it now, and so what I'm looking for, Mr. Beach, is some  
17 understanding of what that strategic plan will be to ensure that your assumptions, as  
18 opposed to OLO's, are, in fact, realized, so that in '11, when we're dealing with this  
19 budget, we're not talking about finding ourselves in a bigger hole, because '11 is going to  
20 be pretty ugly as it is. I get that in '10, we might have a million, two, 3 million dollars' worth  
21 of savings, but we can ill afford to be digging ourselves a hole in '11, and if the answer to  
22 that concern is no, we are going to do this very strategically--is what I believe was the  
23 import--then we need to hear how is that going to be done. So my question to you is,  
24 when can you provide us that kind of roadmap, so that as we take up this item, we can do  
25 so with some confidence or not. But we are going to be taking up this item, as my  
26 colleagues observed, over the course of the next several weeks, and we have to pass  
27 judgment as to whether or not this will in fact be implemented in a way which saves us  
28 money, as opposed to costs us money.

29  
30 JOE BEACH:

31 We will be coming to the MFP on Thursday to address some of those issues, and we can  
32 provide you with more information and detail in writing. I hate to commit to a specific  
33 timeframe, but as soon as we're able to with the staff, we can provide that.

34  
35 COUNCIL VICE PRESIDENT BERLINER:

36 I do think it's going to be very important for this body to understand what that plan is so  
37 that the good work of OLO, if you will, is not realized, and that the strategic vision that I  
38 think is shared between the Executive branch, between our employees, and this Council  
39 of having a, if you will, strategic downsizing that reflects our core mission is realized, as  
40 opposed to our spending more dollars than we otherwise would today. So I look forward to



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1 that report. I know my colleagues do, and to the confidence that you can provide this body  
2 that your vision will be realized.

3  
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Council Vice President. The Executive's original assumption was that 90-  
6 100% of the positions would be refilled. It would be useful to know if that remains the  
7 same assumption, given what has occurred in the past few weeks and the successful  
8 placement of most of the people in the positions that are proposed for abolishment. And  
9 final word, Council-- chair of the MFP Committee Trachtenberg.

10  
11 COUNCILMEMBER TRACHTENBERG:

12 Actually, I had not had a chance to get it out yesterday, but I've been formulating a memo  
13 to the Executive branch, with some questions about the RIP and about the expedited bill.  
14 So I want to encourage my colleagues to get questions to me because I intend on sending  
15 that over this afternoon-- again, hoping that some of those questions will be answered and  
16 provide a foundation for Thursday's conversation.

17  
18 COUNCIL PRESIDENT ANDREWS:

19 OK. Thank you all. We're now going to move on to the District Council Session and  
20 introduction of Zoning Text Amendment 09-02, special provision - parcel consolidation,  
21 sponsored by Councilmember Berliner. Action--the resolution to establish public hearing  
22 for June 9 at 1:30 PM. And then we also have-- and let's deal with that. Is there a  
23 resolution? Is there a motion for the resolution?

24  
25 COUNCILMEMBER LEVENTHAL?????:

26 Let's have a vote.

27  
28 COUNCIL VICE PRESIDENT BERLINER:

29 Yes.

30  
31 COUNCIL PRESIDENT ANDREWS:

32 All right. Moved by Councilmember Leventhal. Seconded by Council Vice President  
33 Berliner. All in favor of the resolution to establish a public hearing for Zoning Text  
34 Amendment 09-02 for June 9 at 1:30, please raise your hand. Councilmember Elrich?  
35 That is unanimous, and that is introduced, and public hearing scheduled. Item B,  
36 introduction of amendment to Chapter 33A, Master Plan process - majority public  
37 hearing...public hearing timing period, sponsored by Councilmember Leventhal. The  
38 action is to establish a public hearing for June 9, also at 1:30.

39  
40 COUNCILMEMBER LEVENTHAL:

41 Mr. President, I move that we have a public hearing on this amendment.



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1  
2 COUNCILMEMBER FLOREEN:  
3 Second.

4  
5 COUNCIL PRESIDENT ANDREWS:

6 Thank you, Councilmember Leventhal. Seconded by Councilmember Floreen. All in favor  
7 of the introduction and establishment of a public hearing on--on this amendment to  
8 Chapter 33A, please raise your hand. That is unanimous. That is introduced. Public  
9 hearing scheduled. We will now move on to Legislative Session, day number 16, for  
10 introduction of bills, and we do have two bills for introduction. First is Bill 20-09, Boards,  
11 Committees, and Commissions - Committee Evaluation Review Board recommendations,  
12 sponsored by Councilmember Leventhal. A public hearing is scheduled for May 12 at  
13 1:30. Looks like--Councilmember Leventhal, did you want to speak to that? Go ahead.

14  
15 COUNCILMEMBER LEVENTHAL:

16 Thank you, Mr. President. I will speak if--with--if there's no objection, I'll speak to the  
17 introduction of both Bill 20-09 and Bill 21-09 at this time.

18  
19 COUNCIL PRESIDENT ANDREWS:

20 Go ahead.

21  
22 COUNCILMEMBER LEVENTHAL:

23 Currently, there are 84 boards, committees, and commissions in the county. In 2004, the  
24 County's Committee Evaluation and Review Board issued a report noting that  
25 Montgomery County had more boards, committees, and commissions than any of the  
26 neighboring jurisdictions that it surveyed. We have 84. Next largest is Fairfax County with  
27 73, Prince George's County had 51, Anne Arundel County had 44, Arlington County had  
28 42, Baltimore County had 35, Howard County had 34. Today, I am introducing two bills  
29 and two resolutions that collectively would reduce the number of boards, committees, and  
30 commissions in the County by 12, to 72. 72 would remain. Let me stress that I value the  
31 input that the Executive and Council receive from our dedicated citizen volunteers. I am  
32 not trying to silence their voices, nor do I want to limit opportunities to participate in  
33 democratic decisionmaking. Most boards and commissions have multiple vacancies each  
34 year. If my bills pass, those citizens whose seats may be eliminated will have the chance  
35 to reapply for other board, committee, and/or commission appointments very quickly. Bill  
36 20-09 would implement recommendations of the 2004 CERB report that were not  
37 implemented in 2005 when Marilyn Praisner and I introduced a bill to implement the  
38 CERB recommendations, only a small portion of which was ultimately enacted. Bill 21-09  
39 would implement suggestions from agencies and the community that are along the same  
40 lines as the CERB report. These bills and resolutions, if enacted, would merge the  
41 Agricultural Advisory Committee, Agricultural Preservation Advisory Board, and the Rustic



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1 Roads Advisory Committee by codifying the Agricultural Advisory Committee, increasing  
2 its membership to 19, and establishing the Agricultural Preservation Advisory Board and  
3 Rustic Roads Advisory Committee as subcommittees of the Agricultural Advisory  
4 Committee; merge the 5 recreation advisory boards with the citizens advisory boards for  
5 those same areas; merge the Committee on Hate Violence with the Committee on Ethnic  
6 Affairs by terminating the Committee on Hate Violence and expanding the duties of  
7 Committee on Ethnic Affairs and renaming it the Multicultural Affairs Advisory Committee;  
8 terminate the Silver Spring Transportation Management District and assign its duties to  
9 the Silver Spring Citizens Advisory Board; merge the Cable and Communications  
10 Advisory Committee with the Cable Compliance Commission by creating the Committee  
11 on Cable and Telecommunications and increasing its membership to 17; merge the Silver  
12 Spring Urban District Advisory Committee with the Silver Spring Citizens Advisory  
13 Committee by requiring the Citizens Advisory Committee to perform the duties of the  
14 Urban District Advisory Committee; and finally, merge the Solid Waste Advisory  
15 Committee and the Dickerson Area Facilities Implementation Group by assigning the  
16 duties of the Dickerson Area Facilities Implementation Group to the Solid Waste Advisory  
17 Committee. Making these changes to the structure of the county's committee system  
18 would help the county's boards, committees, and commissions run more efficiently and  
19 productively. It would make it easier for boards, committees, and commissions to find  
20 applicants willing to serve. It would free up county staff time to allow staff to focus on other  
21 important issues, thus increasing productivity. And it would reduce expenses, particularly  
22 in operating costs associated with having committees that in some cases perform similar  
23 functions. I know that some and maybe all of these proposals will be controversial. I wish  
24 it had been possible to do more outreach to all the affected boards, committees, and  
25 commissions before I introduced these bills, but I didn't get the staff draft of the bill until  
26 last week, and in order to have the bills considered while the FY10 budget is before us, I  
27 had to go ahead and introduce them now. Please just consider the introduction of these  
28 bills to be the start of the conversation. I am quite flexible about the specific proposals in  
29 both bills. Some will say that because these boards and commissions are staffed by  
30 volunteers, they do not cost the county any money. However, paid county employees do  
31 staff each of these groups, with tasks that may include arranging meeting times and  
32 locations, preparing agendas, keeping in contact with chairs and members, taking  
33 minutes, and attending the meetings. We don't yet have an estimate of the actual cost  
34 savings of these two bills, but a back-of-the-envelope calculation shows that at the very  
35 least, we could save about a month of staff time per year, and probably more. If each of  
36 the 12 eliminated boards, committees, and commissions has one meeting per month, and  
37 even if it required only one hour of staff time per month, which--clearly, a meeting,  
38 attending and preparing, will take much more than one hour--but even if it were only one  
39 hour, that would be 144 hours, or more than 3.5 weeks. If we find that each group on  
40 average requires 4 hours per month of paid County staff time --that's a very conservative  
41 estimate--that's more than 14 weeks, nearly 4 months of staff time per year. At a time



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1 when the County Executive has proposed to eliminate 400 positions, thereby increasing  
2 the workload on all remaining workers, we need to ease that burden where possible. In  
3 2005, when Marilyn Praisner and I first tried to make progress in this area, times were  
4 good, and it was easy for Councilmembers to turn down proposals that offered relatively  
5 small savings in the face of opposition from the board, commission, and committee  
6 members who would have been affected. In 2009, I sincerely hope my colleagues in the  
7 Executive branch will take this under more serious consideration. I understand that  
8 various colleagues will not be able to support every proposal in both of these bills. I will  
9 not be critical of any member who takes these suggestions seriously and finds that he or  
10 she just can't support some of them. I do request that the Management and Fiscal Policy  
11 Committee and the full Council consider these proposals promptly and in the sincere spirit  
12 in which they are introduced. With such deep budget cuts being proposed and 400 jobs  
13 being eliminated, I think now is an important time to consider whether some restructuring,  
14 workload reduction, and greater efficiency can be achieved in County government.

15  
16 COUNCIL PRESIDENT ANDREWS:

17 All right. Thank you, Councilmember Leventhal. And we have Bill 20-09 and 21-09, both  
18 dealing with boards, committees, and commissions, and both scheduled for public hearing  
19 on May 12, 2009, at 1:30 before us. Without objection, they are introduced, and the public  
20 hearings are tentatively scheduled, at least, for those times. All right. We'll now move on  
21 to calls of bill for final reading, and first is Expedited Bill 3-09, Local Small Business  
22 Reserve Program - revisions. We have recommendations from the T&E Committee, and  
23 I'll turn to the chair of the committee, Councilmember Floreen.

24  
25 COUNCILMEMBER FLOREEN:

26 Thank you very much, Mr. President. These are--this is really good news for the small  
27 business community. Some of you may recall, this was--I think a program initiated at Mr.  
28 Leventhal's initiation some years ago--two, 3 years ago. And the intention is to commit  
29 10% of the County's procurement resources to small businesses in the area. We were  
30 disappointed to see-- and you will see this on the top of page 3--that in Fiscal Year '08, the  
31 County awarded procurement contracts at approximately \$983 million, but of that, only  
32 11.2 million went to local small businesses under this program. And so we are pleased  
33 that the County Executive's sent over to us a bill that would increase the percentage  
34 number to 20%, with the hope that we will have fewer waivers of the obligation to use this  
35 program for the acquisition of local products and services. So in a nutshell, basically what  
36 this bill does at this point, increases the minimum percentage that each County  
37 department, using the program, must award to certified local small businesses from 10%  
38 to 20% of the combined dollar value of eligible contracts during a fiscal year. We  
39 extended--proposed that we extend the sunset date for the bill to December 31, 2012.  
40 And as I mentioned, the most important element, I think, is to require the director of  
41 General Services to approve the using department's determination that there may be no



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1 local small businesses available to perform a contract. We believe that that element has  
2 been used more liberally than we would have liked in the past, and as a result, the  
3 numbers of procurements assigned to small business has not been as large as we would  
4 like to have seen. So that is the gist of the bill, and that is the committee's  
5 recommendation. I will note that we are taking up the regulations--tomorrow or Thursday,  
6 Mr. Drummer?

7  
8 ROBERT DRUMMER:

9 I think it's been rescheduled for tomorrow. The regulations--

10  
11 COUNCILMEMBER FLOREEN:

12 It's very soon.

13  
14 ROBERT DRUMMER:

15 Yeah. The regulation changes the definition of small business, as well as incorporates the  
16 provisions that would be changed in the law from this bill.

17  
18 COUNCILMEMBER FLOREEN:

19 So the hope is that we will make the nut a bit larger, include--raise the opportunity, and  
20 further support our local small businesses in a really tough economy.

21  
22 COUNCIL PRESIDENT ANDREWS:

23 OK. Thank you, Councilmember Floreen. Councilmember Ervin.

24  
25 COUNCILMEMBER ERVIN:

26 Yes. I'm very happy to be in support of this expedited bill, and I noted that in the legislative  
27 request report, under "the problem that we're trying to resolve with this bill" is that the  
28 current economic climate impacts local small businesses disproportionately to other  
29 businesses, which is why I turned on my light to just report on the Local First initiative in  
30 Wheaton and in Silver Spring and how important it is for us to support these local small  
31 businesses across the County. I'm actually looking to get some support for a countywide  
32 Local First program. I see that the--there are leadership of the Countywide Chamber here,  
33 and I know that there are some issues with the local Chambers around supporting the  
34 Local First initiative, and I look forward to a robust conversation with our--with our new  
35 head of Department of Economic Development, Steve Silverman. I've had some  
36 conversations with him on that. I think the--both these issues dovetail in terms of our  
37 desire to support local small business in the County and to ensure that they thrive,  
38 especially now in this very tough economy. So I thank the T&E Committee for all their  
39 hard work on this bill.

40  
41 COUNCILMEMBER FLOREEN:



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1 Let me just say, I'm glad you mentioned Mr. Silverman. I've discussed this with him, as  
2 well, and I know that he is commencing to meet with small businesses throughout the  
3 County to hear what other-- what their needs are, how we can further assist them. We're  
4 going to keep Mr. Dice very busy, I hope, and I am optimistic that we will find other  
5 resources at our disposal to support that really important part of Montgomery County  
6 business.

7  
8 COUNCIL PRESIDENT ANDREWS:

9 OK. Thank you, Councilmember Floreen and Councilmember Ervin. And I don't see any  
10 other comments on the legislation, so we're ready for a vote. Will the clerk please call the  
11 roll?

12  
13 MARY ANNE PARADISE:

14 Mr. Elrich.

15  
16 COUNCILMEMBER ELRICH:

17 Yes.

18  
19 MARY ANNE PARADISE:

20 Miss Trachtenberg.

21  
22 COUNCILMEMBER TRACHTENBERG:

23 Yes.

24  
25 MARY ANNE PARADISE:

26 Miss Floreen.

27  
28 COUNCILMEMBER FLOREEN:

29 Yes.

30  
31 MARY ANNE PARADISE:

32 Mr. Leventhal.

33  
34 COUNCILMEMBER LEVENTHAL:

35 Yes.

36  
37 MARY ANNE PARADISE:

38 Miss Ervin?

39  
40 COUNCILMEMBER ERVIN:

41 Yes.





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MARY ANNE PARADISE:  
Mr. Knapp.

COUNCILMEMBER KNAPP:  
Yes.

MARY ANNE PARADISE:  
Mr. Berliner.

COUNCIL VICE PRESIDENT BERLINER:  
Yes.

MARY ANNE PARADISE:  
Mr. Andrews.

COUNCIL PRESIDENT ANDREWS:  
Yes. Expedited Bill 3-09, Local Small Business Reserve Program is approved, with the revisions --it's a revision bill--8-0. Next will be Expedited Bill 4-09, Development Impact Tax - deferral, and the MFP Committee has a report. Councilmember Trachtenberg.

COUNCILMEMBER TRACHTENBERG:  
Thank you, President Andrews. Bill 4-09, sponsored by the Council President at the request of the County Executive, was introduced back in mid-February--February 10 to be exact--and I thought I would start my summary off by providing some detail about what was first introduced and what we ultimately got to as an approved bill, as a sponsored bill. As introduced, the bill would have allowed building permit applicants subject to development impact taxes for both public transportation and public school improvements to defer their payment for 12 months, and originally drafted, the bill would allow for that deferral authority to start 60 days after the bill became law until the bill would sunset on April 1, 2010. And that is, anyone obligated to pay either the impact tax during that period could defer payment for 12 months, even if the deferral would extend after April 1, 2010. A public hearing was held on March 3, and there was an initial Management and Fiscal Policy Committee worksession on March 9. The bill was discussed at length with the Executive staff and also development community representatives. A number of issues were raised. There was a discussion on whether actually the bill as drafted would create or save jobs. There was a particular interest in whether or not it would actually stimulate new housing development and whether it should be actually just limited to commercial construction, but probably the meatiest issue that was raised was the issue of the deferral agreement and the status of property liens, and there were some concerns raised about what impact that that would have, actually, on the availability of financing. With that in



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1 mind, the committee asked the Executive branch to come back to us with a revised form  
2 of-- formulation of the bill. On April 8, there was a discussion within MFP, and there was a  
3 new version of the bill provided. Basically, the bill was modified to temporarily shift the  
4 imposition of the impact tax from the building permit application to final building  
5 inspection/approval. It was felt that the change would resolve the security issue by  
6 eliminating the deferral agreement lien on the property, which clearly the development  
7 representatives had strongly objected to, and it would also postpone County receipt of the  
8 tax from larger developments for longer than the original 12-month deferral period, or  
9 even the two years later proposed, but would require the tax for single-family homes and  
10 other smaller developments to be paid earlier than previously proposed. So there was  
11 actually unanimous recommendation on that date around the revised bill formulation.  
12 However, since that time, there have been some questions raised about the bill specific to  
13 the fiscal impact, and I know that Dr. Orlin has joined us for this morning's conversation--  
14 or this afternoon's conversation, and I'm going to ask--

15  
16 COUNCIL PRESIDENT ANDREWS:  
17 It's still this morning.

18  
19 COUNCILMEMBER TRACHTENBERG:  
20 Still this morning.

21  
22 COUNCILMEMBER KNAPP:  
23 Barely.

24  
25 COUNCILMEMBER TRACHTENBERG:  
26 Two more minutes, and then it's the afternoon. But I wondered, Glenn, if you could walk  
27 us through the actual tax collections because the issue that's been raised by colleagues--  
28 including some on the committee, although I haven't polled the entire committee--is that  
29 this would have an impact on the CIP. So I wonder, Glenn, if you could take us through  
30 the table which is provided, I believe, on circle 27.

31  
32 GLENN ORLIN:  
33 Correct. As you noted, the Executive has changed the bill, but that also has changed the  
34 fiscal impact statement. If you turn to circle 27 in your packet, what you'll see is their  
35 revised fiscal impact of the bill. In the last two columns on that table in the middle of circle  
36 27 shows the reduction in transportation and school impact tax revenues that will be  
37 available for the CIP for transportation and school projects, respectively. There's one thing  
38 you should note in FY10. You'll see that the Executive's showing a reduction of  
39 13,223,000, and 19 million and some for schools, but that traces back to the assumption  
40 in the approved CIP from last year. You might recall, in February, the Council already has  
41 assumed a lower take in FY10 than what had been assumed. Those numbers are 10



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1 million and 11 million dollars, respectively. So rather than being a loss of \$32 million and  
2 change from this bill, it's really a loss of 21 million from what the Council's tracking is right  
3 now. But it would still be a \$21 million reduction in revenues available for CIP in FY10,  
4 and a \$13.5 million reduction in FY11, smaller amounts in later years. If you recall also in  
5 past CIPs, the hardest years to reconcile are usually the next year and the year after. And  
6 the draft CIP that you're in the process of developing, the last time you got a status report  
7 from me two weeks ago, you saw that there--we're currently \$14 million over in Fiscal  
8 Year '10 and \$36 million over in FY11. So if you add these revenue reductions on top of  
9 that, we'll be about \$35 million over in FY10 and about \$49 million over in FY11. And that  
10 means that reconciliation, we're going to have to find ways of deleting money out of those  
11 two years and either pushing to later years or deleting them entirely. You can't go back  
12 and raise the bond limits again--you did that already--unless you have a super majority of  
13 7 or more deciding to exceed spending affordability, which is actually only rarely done for  
14 the CIP, but can be done. The alternative is, again, to delete or delay projects out of the  
15 CIP, and we can do some things that we could call technical adjustments, which are just  
16 checking with the capital project managers and the agencies to see if projects, in fact,  
17 have slipped on their own. There is always some of that, but these numbers go way, way  
18 beyond that. So I'm just alerting you of this. We'll have the bill, but also the fact impact  
19 taxes, period, even without the bill, have come in a lot slower than what we expected. The  
20 last point I'll make on this is that when we made our assumption back in February of 21  
21 million instead of 32 million, that was assuming that the second half of FY09 was going to  
22 be somewhat better than the first half of FY09, because traditionally the second half of a  
23 fiscal year produces more building permits and more revenues than the first half. No.  
24 That's not happening now. As the Executive has pointed out in his--in this same packet,  
25 the total take in FY09 through the first 9 months of the year for both impact taxes is \$7.5  
26 million. That projects out to maybe 11 over the year, and we had assumed for FY09 about  
27 18 million. So we're short even in '09. So I'm just a big wet blanket, I guess.

28  
29 COUNCIL PRESIDENT ANDREWS:

30 OK. There are a couple lights on, Chair Trachtenberg. Council Vice President Berliner.

31  
32 COUNCILMEMBER TRACHTENBERG:

33 I knew there would be.

34  
35 COUNCIL PRESIDENT ANDREWS:

36 Yeah.

37  
38 COUNCIL VICE PRESIDENT BERLINER:

39 Dr. Orlin, I guess the question I have for you is, you know, we've gone through all these  
40 numbers, and I'm trying to relate the numbers that you've just shared with us in terms of  
41 its impact on our Capital Improvements budget to the reality on the ground, because



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1 basically we were--have been told, and our operating assumption has been, as you  
2 suggested, that the economic activity is at such a slow pace that it's hard to understand  
3 how it could have such a significant impact if, in fact, we're not collecting the revenues in  
4 the first instance. So I don't want to be comparing numbers against that which, as your  
5 note says on the middle of page 27, predating the economic reality that currently we are  
6 dealing with, so--I'm looking at "note" literally right under the chart there, on page-- on  
7 circle 27. We're on the same, Dr. Orlin?

8  
9 GLENN ORLIN:  
10 Right.

11  
12 COUNCIL VICE PRESIDENT BERLINER:

13 So what I'm asking you is, you just gave us a series of numbers in which I believe the  
14 bottom line was that there was something on the order of a \$35 million potential hole in  
15 this--FY10, which, as you observed, is always the harder years--FY10 is a harder year  
16 than FY14. So how much confidence can I have, though, in that \$35 million number if, in  
17 fact, the economic activity is so slow to begin with?

18  
19 GLENN ORLIN:

20 So let's divide this into 3 parts, because it's not--I want to separate what's maybe the  
21 cause of the bill from what's the cause of just the general downturn from what the Council  
22 has already done in terms of tentative decisions in the CIP. Tentative decisions in the CIP  
23 so far, you're showing about \$14 million more than what we can afford under spending  
24 affordability. OK? And then there would be the additional \$21 million--there would be \$21  
25 million less in revenue to support that CIP, based on two things. One is a further slowing  
26 down in transportation school impact tax collections than what we expected. And then  
27 secondly, not having any of that revenue as a result of the bill in FY10. So--I mean, I don't  
28 want to put the blame on the bill for a \$21 million loss. That would not be true.

29  
30 COUNCIL VICE PRESIDENT BERLINER:  
31 OK. What would be true?

32  
33 GLENN ORLIN:

34 I don't know. I don't know what part of that 21 million is the bill, what part of it is just the  
35 general downturn. The point I'm trying to make is, all--the combination of these 3 things,  
36 we've got a problem. I don't know. These estimates are brought to you by OMB. It's part of  
37 OMB's analysis.

38  
39 COUNCIL VICE PRESIDENT BERLINER:  
40 They're having a good day so far.

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1 GLENN ORLIN:

2 No, no, no. These are--they're very correct in what they're showing. These are the  
3 changes from the FY09 approved assumptions for revenue. They're right on. So they--no  
4 complaints at all with what they're showing.

6 COUNCIL VICE PRESIDENT BERLINER:

7 Sorry, Mr. Beach. I didn't mean--

9 GLENN ORLIN:

10 I'm just--I'm explaining the implications of it. That's all.

12 COUNCILMEMBER TRACHTENBERG:

13 Right. And I just want to interject, Roger, that the conversation that was--that emanated  
14 from the committee, we really didn't have the benefit of that memo until really the day of  
15 and a few days after. In other words, the tables that we're really talking about at this point  
16 were not fully discussed within the work committee, and that is why I am inclined to want  
17 to defer action on this, for that precise reason.

19 COUNCIL PRESIDENT ANDREWS:

20 We have a few other--we have a few other comments. Councilmember Elrich is next.

22 COUNCILMEMBER ELRICH:

23 Why doesn't the ripple--why doesn't the deferral ripple forward? I mean, I don't see a big  
24 bump in the year after, where I thought that that would be the impact of deferred--because  
25 we're not forgiving the fees, we're simply deferring them. So shouldn't they have a positive  
26 effect in the second year?

28 COUNCIL VICE PRESIDENT BERLINER:

29 Two years. So it should be the third year.

31 JOE BEACH:

32 It's sort of a-- yeah, it's sort of a static assumption. It's all relative to the numbers in the '09  
33 CIP, so there's no assumption that this would--certainly, we mean it to be economic  
34 assistance, but there's no assumption that there would be increased development  
35 economic activity in this fiscal impact as a result of it. As Mr. Faden mentioned, it is a two-  
36 year deferral, so it does --the effect does reduce over time.

38 GLENN ORLIN:

39 I think what he may be asking is that if we're deferring payments in '10, '11, those  
40 payments will be made by '12, '13, '14, why would those numbers not be positive?



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1 JOE BEACH:

2 I see what you're saying. Yeah. That's a good point. I think we could revisit that, as well.  
3 I'd have to talk to the actual staff who prepared the fiscal impact statement to make sure I  
4 understood those assumptions very clearly. We can--

6 COUNCILMEMBER ELRICH:

7 OK. And I guess... Based on what you actually think is going to happen in terms of  
8 collecting impact fees, don't we need to make further reductions anyway, or are we just  
9 going to use assumptions, or are you suggesting we change our assumptions to reflect  
10 the real world?

12 GLENN ORLIN:

13 The latter.

15 COUNCILMEMBER ELRICH:

16 The latter?

18 GLENN ORLIN:

19 But with reconciliation, that will be brought up. I mean, in FY09, for example, if we're  
20 collecting less money --and this bill has no effect on FY09. But if we're collecting, in fact,  
21 less money in FY09 than we expected even in February compared to last year, then we  
22 need to make adjustments in '09. That will--and that'll be part of the package. Don't know  
23 how yet, but that will be part of the package.

25 COUNCILMEMBER ELRICH:

26 And how does the impact fee fund sit right now? My assumption or impression was there  
27 was this separate world of money out there, that there was--you know, we collect the  
28 impact fees, and we get this report on how much is in there and how much is spent down,  
29 and it doesn't always get spent down at an even rate. I mean, is that that a fund that even  
30 though this--even though current impact fees aren't going into, aren't there funds in there  
31 that could be used for this purpose, even if it's not this specific set of money?

33 GLENN ORLIN:

34 Well, the CIP would identify projects which have a certain amount of impact taxes in them.  
35 If the impact taxes aren't there to be able to fund the money in that year, oftentimes in the  
36 past, there have been advances from the General Fund, but those advances are  
37 supposed to be paid back by later collection of impact taxes, and for several years back--I  
38 think back up until, like, the early part of this decade, that was sort of a regular  
39 occurrence. I think we've been in pretty good shape the last couple of years, but we're sort  
40 of entering the same kind of situation again now.



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1 JOE BEACH:

2 Yeah. Even though we are--our collections are below what we had assumed in the CIP,  
3 we're not significantly advanced within the impact taxes at this time. An alternative  
4 approach to this --and I know Mr. Orlin doesn't agree with that-- is to do the reconciliation  
5 of our revised impact tax estimates in the full CIP next year, when we have a chance to  
6 sort of gauge the, you know, the prospects of the economy and the impact of this bill on  
7 development activity and not have this affect the Council's reconciliation. In fact, that was  
8 sort of our assumption going forward in this bill. I mean, obviously, Mr. Orlin does not  
9 agree with that approach, but that would be an alternative approach.

10  
11 COUNCILMEMBER ELRICH:

12 So you're just delaying the bad news, or --I mean, what...

13  
14 GLENN ORLIN:

15 No. I think we need to do this year by year because the money, in fact, isn't there to fund  
16 projects in the current fiscal year and the next fiscal year. That has to be addressed now.  
17 Otherwise, that has to be dealt with, with either delays that the Council is not seeing--  
18 there--sometimes, maybe the Executive will give a direction, or CO give a direction, "Slow  
19 down this project because we can't afford to pay for it"--or there are advances from the  
20 General Fund, and until that money is paid back, that's not available for other things the  
21 General Fund might need. So I think as you go along, you need to be--try to hone as  
22 closely as possible--we can't be exact--to the revenues that are available.

23  
24 JOE BEACH:

25 We do have a biennial--by charter, a biennial CIP in the county, and typically, that's meant  
26 to sort of narrow and focus the Council and the Executive's efforts to amend the CIP. So  
27 what Mr. Orlin is recommending, I respect it, but it would be more akin to doing the full  
28 CIP, at least from a funding perspective, every year.

29  
30 COUNCILMEMBER ELRICH:

31 It seems like some more discussion is warranted.

32  
33 COUNCIL PRESIDENT ANDREWS:

34 All right. Councilmember Trachtenberg, did you have a follow-up?

35  
36 COUNCILMEMBER TRACHTENBERG:

37 Well, what I was going to suggest at this point is that I would make a motion that we would  
38 defer action on this until we've had the opportunity to receive from the Executive branch,  
39 again--from Mr. Beach--a definition, some type of a memo, an explanation to us around  
40 making up the difference on the revenue decrease specific to the CIP, and that we could,



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1 perhaps, if we receive that within the next week, add the item for action on next week's  
2 agenda on Tuesday.

3  
4 JOE BEACH:  
5 We can do that.

6  
7 COUNCIL PRESIDENT ANDREWS:  
8 OK. I don't even know that we need to be that formal. I think we should just--let's get that  
9 information and come back to it. All right? Let's do that.

10  
11 COUNCILMEMBER TRACHTENBERG:  
12 Yeah. Yeah. I think we need to have that definition, Joe.

13  
14 COUNCIL PRESIDENT ANDREWS:  
15 OK. So please provide us with that information as soon as possible. And we have two  
16 more items I want to get to today, so--oh, I'm sorry. All right. Councilmember Leventhal,  
17 then Councilmember Floreen, then Councilmember Ervin.

18  
19 COUNCILMEMBER LEVENTHAL:  
20 Thank you, Mr. President. I appreciate the need to expedite the agenda, but I do have two  
21 questions I wanted to ask. Mr. Beach, have-- I would like to understand, maybe from Mr.  
22 Orlin or Mr. Faden, at what point in the process are impact taxes levied? Is it before site  
23 plan? Is it at building permit? When do we know what the impact taxes will be?

24  
25 MICHAEL FADEN:  
26 At building permit.

27  
28 COUNCILMEMBER LEVENTHAL:  
29 OK. So it seems to me, then, that Park and Planning--because you have preliminary  
30 planning, you have site planning--Park and Planning would probably have some actual  
31 data about how many projects are underway. Yes? Is that a reasonable assumption?

32  
33 MICHAEL FADEN:  
34 Sure.

35  
36 COUNCILMEMBER LEVENTHAL:  
37 Has OMB made an effort to ascertain from Park and Planning how many actual, in-the-  
38 ground things we're talking about?

39  
40 JOE BEACH:





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1 When we prepare our estimates on impact tax, that's absolutely some of the data. We do  
2 use the data from Park and Planning, as well, although I've got to say, it's very volatile,  
3 and I think Mr. Orlin would agree with this.

4  
5 GLENN ORLIN:

6 Yes.

7  
8 JOE BEACH:

9 It's been very difficult to accurately and precisely estimate these revenues.

10  
11 COUNCILMEMBER LEVENTHAL:

12 The initial estimate was based on an analysis of preliminary plans and site plans  
13 underway at the current time? Yes?

14  
15 JOE BEACH:

16 That included that type of data from Park and Planning, as well as some other  
17 considerations, as well.

18  
19 GLENN ORLIN:

20 If I can add, though, the problem with just taking Park and Planning data alone is because  
21 you don't know how long it will be from subdivision approval, or even from site plan  
22 approval, to actually getting a building permit. It could lag a few months. It could lag years.  
23 And so that's--it gives you a general idea as to maybe what will happen over the next 5 or  
24 6 years. It gives you really no good data for, like, what's going to happen next year.

25  
26 COUNCILMEMBER LEVENTHAL:

27 OK.

28  
29 JOE BEACH:

30 That's why it's a factor. It's not determinative, but it's certainly something we want to  
31 consider.

32  
33 COUNCILMEMBER LEVENTHAL:

34 Yeah, OK. I also wanted to understand-- of course, it's the Council President's prerogative  
35 to take something off the agenda at any time, and I appreciate that, but earlier the chair of  
36 the MFP Committee had said that she had polled the committee and the--but she hadn't  
37 polled the committee? I just wasn't clear. Had the committee been contacted, or--

38  
39 COUNCILMEMBER TRACHTENBERG:

40 I said that I hadn't been able to poll the entire committee. I have not spoken, obviously,  
41 directly to Councilmember Ervin. I'll be very specific.



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1  
2 COUNCILMEMBER LEVENTHAL:

3 You polled some of a 3-member committee.

4  
5 COUNCILMEMBER TRACHTENBERG:

6 No. I didn't poll them, actually. I had colleagues come to me about the item, and,  
7 obviously, one of them was the Council President.

8  
9 COUNCILMEMBER LEVENTHAL:

10 Poll was the chair's word.

11  
12 COUNCILMEMBER TRACHTENBERG:

13 George, I actually think that your comments are not being made in the spirit of  
14 collaboration.

15  
16 COUNCILMEMBER LEVENTHAL:

17 So, just for the record, the chair spoke with one member of a 3-member committee?

18  
19 COUNCILMEMBER TRACHTENBERG:

20 George, when I walked in this morning, I had several emails and voicemails from  
21 colleagues. I don't need to name names. And obviously, I walked up here to this dais with  
22 my pocketbook and my bundles, OK? I didn't have a lengthy period of time in my office to  
23 go contact Councilmember Ervin. No one is looking to isolate a colleague from discussion,  
24 and I did not want to represent what I was saying as a committee recommendation  
25 because I did not have the opportunity, the benefit, of having a direct conversation with  
26 Councilmember Ervin. I think that should clarify what went on. Again, I do not appreciate  
27 the spirit in which your remarks are being made.

28  
29 COUNCILMEMBER LEVENTHAL:

30 Are discussions among committee members to--

31  
32 COUNCIL PRESIDENT ANDREWS:

33 Councilmember Leventhal, let's move on to the substance of the issue, please. We have  
34 still two more items to go.

35  
36 COUNCILMEMBER LEVENTHAL:

37 So we don't have a committee recommendation before us. Is that correct?

38  
39 COUNCIL PRESIDENT ANDREWS:

40 We don't have a--we don't have a change from what the committee recommendation is  
41 before us.



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1  
2 COUNCILMEMBER TRACHTENBERG:

3 Yes, exactly. I didn't change it, obviously.  
4

5 COUNCIL PRESIDENT ANDREWS:

6 The committee recommendation is what the packet is.  
7

8 COUNCILMEMBER LEVENTHAL:

9 OK. So no decision was made by the committee among private session of members?  
10

11 COUNCIL PRESIDENT ANDREWS:

12 The committee recommendation is the same as it is in the packet.  
13

14 COUNCILMEMBER LEVENTHAL:

15 Thank you.  
16

17 COUNCIL PRESIDENT ANDREWS:

18 OK. Yes. And we have--if we are going to pull this, we are going to come back to it after  
19 we get the information. Mr. Beach, do colleagues still wish to speak to this issue, or do  
20 they want to move on to the next issue? Councilmember Floreen.  
21

22 COUNCILMEMBER FLOREEN:

23 Thank you. I honestly don't know what we achieve by delaying the action on this, but be  
24 that as it may, I just want to make a couple of points. As the County Executive explained,  
25 when he proposed this, the idea is that maybe we will get some money in our pockets that  
26 we might not. That really is the intention of this. Everyone knows there's very, very little  
27 construction going on, very few projects going to permitting. Actually, we're talking about  
28 that in the DPS environment. And the real fact of the matter is that these development  
29 impact fees aren't being paid, period. So I think it was important to note at the beginning of  
30 the conversation that the numbers are down and are going down as we speak. The other  
31 part of this conversation, I just remind everyone here, this is--to the extent--well, to the  
32 extent we're talking about businesses, we are talking about an industry that has lost I don't  
33 know how many jobs now. I heard amongst a small number of people, 1,700 employees  
34 have lost employment. That means lost tax revenue to us--income taxes. These are  
35 people who are in need of work, and this is revenue that's not coming into the County. So  
36 I think it's important when we talk about deferral of this tax, not only is it somewhat  
37 academic, but if it does work, we could help with--the employee situation within the  
38 County. And I think that is something we need to recall when we get into this. And then  
39 finally, I'll just note, it's an interesting conversation because it points out how dependent  
40 the county is on development to pay its bills.  
41



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1 COUNCIL PRESIDENT ANDREWS:

2 OK. Thank you, Councilmember Floreen. And final comment I see is from Councilmember  
3 Elrich, and then we're going to move on to Expedited Bill 5-09.

4  
5 COUNCILMEMBER ELRICH:

6 If we defer these--if something happens that we wind up not having the money to build a  
7 capital project, we have to take capital projects out of the CIP, then those construction  
8 jobs will be lost. This is not construction jobs versus no construction jobs. It's which end of  
9 this it's going to come out of, and is there a third solution which would make sure we have  
10 the money to keep the CIP intact and at the same time try to provide some benefit? So  
11 let's, you know, let's not act like we're going to do this and it's going to save jobs and then  
12 on the other hand whack \$13 million in other construction projects off and act like that's  
13 not going to cost us work.

14  
15 COUNCIL PRESIDENT ANDREWS:

16 All right. And now we're going to move on to Expedited Bill 5-09, permit fees - new  
17 construction, and the PHED Committee recommends approval with amendments.  
18 Councilmember Knapp, chair of the committee.

19  
20 COUNCILMEMBER KNAPP:

21 Thank you, Mr. President. As this is the third piece of legislation that's come over for us to  
22 look at ways that we can hopefully spur on some activity within our building sectors, as  
23 introduced, Bill 5-09 will allow applicants to defer payment of certain Department of  
24 Permitting services, permit inspections, license and engineering fees, for 12 months. It  
25 would also extend the time limit before a building permit is treated as abandoned from 6 to  
26 12 months after the permit was issued, and the deadline to record the initial building  
27 inspection with DPS from 12 to 18 months, and the second inspection from 14 to 20  
28 months after the permit was issued--effectively adding 6 months to all of those processes.  
29 The fee deferral authority would apply starting 60 days after this bill becomes law until the  
30 bill sunsets on April 1, 2010. That is, anyone obligated to pay a covered fee during that  
31 period could defer payment for 12 months, even if the deferral would extend after April 1,  
32 2010. The fee ultimately paid would be calculated, we presume, at the rate and terms  
33 which applied when it was originally due. We had our public hearing. There were some  
34 issues that were raised which actually-- and then this came to the committee, and as a  
35 result of issues that had been raised at the public hearing, the Executive branch had  
36 asked for some additional time to go back and work with the various affected communities  
37 and did so. On April--on April 8, the Executive staff advised Council staff that after  
38 discussions with the development community, the Executive wanted to withdraw parts of  
39 Bill 5-09 that would defer certain permit fees but retain those provisions that would extend  
40 certain building permit time limits. At our second worksession, held on April 14, the  
41 committee recommended enactment of the bill with the Executive's amendments, but



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1 sunseting them in two years rather than one, which was consistent with action that we  
2 had taken on-- what did we do, Mr. Faden?

3  
4 MICHAEL FADEN:

5 On the subdivision amendment relating to the validity period.

6  
7 COUNCILMEMBER KNAPP:

8 Right. So we kept--everything basically extends for two years, since we expect that the  
9 current economic issues are not going to resolve themselves in the next 6 to 12 months,  
10 as much as we might like them to, so we wanted to make sure that there was a full two-  
11 year time period for these measures that we're taking to fully take effect.

12  
13 COUNCIL PRESIDENT ANDREWS:

14 Thank you, Councilmember Knapp. I don't see any questions or comments at this point,  
15 so we are ready for a vote, then, on this bill, Expedited Bill 5-09, permit fees - new  
16 construction deferral. And the clerk will call the roll.

17  
18 MARY ANNE PARADISE:

19 Mr. Elrich.

20  
21 COUNCILMEMBER ELRICH:

22 Yes.

23  
24 MARY ANNE PARADISE:

25 Miss Floreen.

26  
27 COUNCILMEMBER FLOREEN:

28 Yes.

29  
30 MARY ANNE PARADISE:

31 Mr. Leventhal.

32  
33 COUNCILMEMBER LEVENTHAL:

34 Yes.

35  
36 MARY ANNE PARADISE:

37 Miss Ervin.

38  
39 COUNCILMEMBER ERVIN:

40 Yes.

41



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1 MARY ANNE PARADISE:

2 Mr. Knapp.

4 COUNCILMEMBER KNAPP:

5 Yes.

7 MARY ANNE PARADISE:

8 Mr. Berliner.

10 COUNCIL VICE PRESIDENT BERLINER:

11 Yes.

13 MARY ANNE PARADISE:

14 Mr. Andrews.

16 COUNCIL PRESIDENT ANDREWS:

17 Yes. The bill is approved, 7-0. Our final action for the morning, and item, is a resolution  
18 regarding the use of brick and other pavements in the public right-of-way, and I will turn to  
19 the chair of the Transportation, Infrastructure, Energy and Environment Committee, Chair  
20 Floreen, for the committee's report.

22 COUNCILMEMBER FLOREEN:

23 Thank you, Mr. President. Jackie Simon has been sitting here very patiently for a long  
24 morning, and I want to thank her and the Commission for People with Disabilities for their  
25 very significant engagement in this effort. It was at their instigation that we initiated this  
26 conversation about safe travel through the community. Although it may be a small issue to  
27 many people, it's a big issue for people with disabilities, having trouble moving. So I want  
28 to thank all the people who have been engaged in this conversation. Basically, our initial  
29 proposal had been to ban altogether use of brick and decorative pavers in the walkways  
30 because of this issue--because of the difficulty for mobility. After some significant  
31 conversations, both with the commission and with the industry folks, we worked-- and the  
32 Urban Districts, not to mention the urban designers amongst us who feel that we can  
33 achieve an attractive and aesthetically pleasing environment, while at the same time  
34 addressing the needs of the disabled. We came up with a resolution that you have  
35 attached at the very end of your packet, and basically what it recognizes is the concern of  
36 the Commission on People with Disabilities, noting that wheelchair users and others with  
37 limited mobility find pavements of brick, chamfered--which is the brick that has edging  
38 around it; you'll find out if you're on crutches, as I am today--and cobblestone pavers and  
39 stamped concrete is extremely difficult to travel over and create--increase injuries, and the  
40 County Department of Transportation has its own set of concerns about their  
41 maintenance. And what we worked out is a proposal to basically permit chamfered and



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1 cobblestone pavers and stamped concrete in public rights-of-way as edge treatments  
2 only, and decorative elements, but no longer in the paths of travel in the public right-of-  
3 way unless they are included in an existing County Capital Improvement Project for which  
4 funds have been appropriated or they are included in a requirement for a subdivision or  
5 site plan approved prior to February. And I think--Glenn has a correction here, I think.

6  
7 GLENN ORLIN:

8 It should say project plans...

9  
10 COUNCILMEMBER FLOREEN:

11 Project plan, as well.

12  
13 GLENN ORLIN:

14 ...of subdivision or site plan. That's my error. The committee did talk about including that.  
15 And that should be included there as well as the end of the second paragraph.

16  
17 COUNCILMEMBER FLOREEN:

18 And then basically what we discussed and agreed to is a solution that would say, brick  
19 pavements may be constructed in the paths of travel as long as they're installed according  
20 to the standards, basically, that are used in Bethesda today--the Bethesda Streetscape  
21 standards --and also limited to environments where there is a maintenance agreement,  
22 primarily in the Urban Districts. And the point of that, of course, is to ensure predictable  
23 and safe mobility standards, and that's--the Urban Districts are the primary locations  
24 where that would be acceptable. There may be circumstances, though, in other places  
25 where a maintenance agreement can be entered into, and that will address the problem.  
26 And again, Miss Simon has been a tremendous advocate for this and a constant player  
27 and quite the show horse in The Washington "Post," I must say--nice-- a nice series of  
28 pictures. So that is the committee's recommendation. Did I leave anything out, Glenn?

29  
30 GLENN ORLIN:

31 No.

32  
33 COUNCIL PRESIDENT ANDREWS:

34 OK. Thank you, Councilmember Floreen. Councilmember Ervin?

35  
36 COUNCILMEMBER ERVIN:

37 Yes. Thank you. I want to compliment and commend Councilmember Floreen for all of her  
38 hard work on this issue. I had no idea what I didn't know about brick pavers, but I, like  
39 many of my colleagues, have learned a great deal about them, and I represent two very  
40 large Urban Districts and paid very close attention to what we learned about the proper  
41 way to build and install these brick pavers to make it safe for folks with disabilities. And so



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1 we are, I think, very pleased with the outcome, Councilmember Floreen, and I want to  
2 congratulate you for your very balanced approach to finding a resolution to this bill. So  
3 congratulations to you, and I look forward to voting on this.

4  
5 COUNCILMEMBER FLOREEN:

6 Thank you. I see Miss Simon wanted to-- may she have the last word, Mr. President?

7  
8 COUNCIL PRESIDENT ANDREWS:

9 Well, there are couple of other words, but she can come on up, if you'd like, and would  
10 you like to say a few words, Miss Simon?

11  
12 JACKIE SIMON:

13 I would just like to express the thanks of the Commission on People with Disabilities for  
14 the sensitivity and the responsiveness. We've met each year with one or more  
15 Councilmembers. They've heard the concerns, they've carried them back, and we've  
16 appreciated the support of both the Executive staff and your staff in not pushing the issue  
17 aside, not diminishing the impact, and the industry's responsiveness in educating us into  
18 what can be a response that meets everybody's needs. And I think it's been a win-win,  
19 and I think all of you are to be congratulated for your responsiveness. Thank you.

20  
21 COUNCIL PRESIDENT ANDREWS:

22 Thank you for your hard work and long-time advocacy for people with disabilities. Council  
23 Vice President Berliner.

24  
25 COUNCIL VICE PRESIDENT BERLINER:

26 Well, my comments were basically along the lines of Jackie's, and, one, let me also  
27 associate with my colleague's observations about Chair Floreen's efforts in this regard in  
28 bringing this matter to our attention so that we were able to get to a place where we could  
29 achieve a win-win. It is clear that there are legitimate concerns of the disabled community,  
30 and when we have done this poorly, it has come at great sacrifice to our disabled  
31 community. And the reality, of course, is we don't need to do it poorly, and the standards  
32 we are adopting today achieve the goals that the disabled community has sought, which is  
33 to be able to move throughout our community without suffering, and we can do that in an  
34 aesthetically pleasing manner. So it is, as you observed, a win-win, and it would not have  
35 happened but for the chair pushing forward in this and engaging the conversation and  
36 arriving at this result, so thanks to all my colleagues involved in this.

37  
38 COUNCIL PRESIDENT ANDREWS:

39 Well said. And Councilmember Leventhal.

40  
41 COUNCILMEMBER LEVENTHAL:



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1 Having spoken earlier about the 84 boards and commissions that I'm hoping we may be  
2 able to compress to 72, I do want to really acknowledge that this was a great example of a  
3 citizen commission bringing an issue to our attention, and it had a real policy impact, so  
4 that's very much appreciated. I share my colleagues' commendations to the committee  
5 chair, Nancy Floreen. I also want to point out that when this was first brought to our  
6 attention, our Council President was very supportive, so I think we can all feel good. This  
7 was a nice and good and important outcome.

8  
9 COUNCIL PRESIDENT ANDREWS:

10 Thank you, and again, good work. Good work leading the effort, Councilmember Floreen,  
11 and there was a lot of good work with different stakeholders to come up with a win-win, as  
12 Council Vice President Berliner put it. And so we're now ready to vote on this measure.  
13 And all those in favor of this resolution, please raise your hands. That's Councilmember  
14 Elrich, Councilmember Floreen, myself, Council Vice President Berliner, Councilmember  
15 Ervin, and Councilmember Leventhal. It is approved, 6-0. Thank you, everybody. And we  
16 are going to recess, and we come back at 1:30 for a public hearing and the rest of the  
17 items.

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2  
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4  
5  
6



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1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon, everybody, and welcome to the County Council. We have a number of  
3 public hearings this afternoon and then some Committee business, and then more public  
4 hearings this evening. There will be other Councilmembers joining us shortly. The first 2  
5 public hearings, actually, have no speakers, so we're postponing the first one, which I'll  
6 read. And then the second one, which we will have here, does not have speakers, and we  
7 do have some speakers for some of the others. Public hearings are a very important part  
8 of our process, and every bill that's introduced, every appropriation has to have a public  
9 hearing so that we can gather information from interested parties and to factor that into  
10 our decision-making, and we hope in a timely way. So I will begin with the first hearing,  
11 which is Agenda Item number 11, and this is the public hearing on Zoning Text  
12 Amendment 0-91, Sandy Spring/Ashton overlay zone-- prohibited uses. This hearing has  
13 been postponed to this evening at 7:30 p.m., and we will hear from speakers then. Item 12  
14 is a public hearing on a supplemental appropriation to the Montgomery County Public  
15 Schools FY09 capital budget, \$154,000--154,640 for the current replacement/  
16 modernizations project, and this is Carderock Springs Elementary School. Persons  
17 wishing to submit additional material for the Council's consideration should do so by the  
18 close of business today, April 21. An Education Committee work session is tentatively  
19 scheduled for Wednesday, April 22, at 9:30 a.m., and please call 240-777-7900 for  
20 information. There are no speakers for this particular hearing, and so this public hearing is  
21 concluded. Our next public hearing is on Bill 9-09, Schools and Camps--grants for  
22 teaching math and science. It would establish a grant program for updating skills of  
23 mathematics and science teachers in the County, provide grants for certain Master's  
24 Degree programs in the County, provide awards for certain teachers of mathematics and  
25 science courses in the County, direct the Department of Economic Development to  
26 administer the program, and generally enhance the teaching of mathematics and science  
27 in middle and high schools located in the County. Persons wishing to submit additional  
28 material for the Council's consideration should do so before the close of business Friday,  
29 May 29, 2009. An Education Committee work session is tentatively scheduled for a later  
30 date--will be scheduled for a later date. Please call 240-777-7900 for information. And this  
31 measure is sponsored by Councilmembers Knapp, Leventhal, and Floreen, and we do  
32 have a speaker for this measure and I will call him up. That is Mr. Tom Israel, representing  
33 the Montgomery County Education Association. I don't know if he is here at the moment,  
34 but if he's not, we will then solicit his written testimony for the Committee's and Council's  
35 consideration. And with that, we will close that public hearing and move on to the next  
36 public hearing, which does not have any speakers either. But we do have one after that  
37 that has several. This public hearing, the next one, which is Item 14 on the Agenda, is a  
38 public hearing on the intent to consider increasing the FY10 General Fund tax rate above  
39 the Constant Yield tax rate. Council Committees have begun their work sessions on the  
40 budgets and Council work sessions are scheduled for May. Persons interested in  
41 submitting additional information or attending the work sessions should call the Council



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1 office at 240-777-7900 for information as to when specific budgets will be considered. And  
2 there are no speakers for this hearing, so that--but there is a comment, I believe, so I will  
3 turn to Councilmember Leventhal.

4  
5 COUNCILMEMBER LEVENTHAL:

6 Well, I think your staff is making you aware that Tom Israel was briefly out of the room. I'm  
7 sure he regrets not being here when you called him up, but he was just out of the room  
8 momentarily. So at the appropriate time, perhaps if we could return to Agenda Item 13?

9  
10 COUNCIL PRESIDENT ANDREWS:

11 Sure. OK. All right, but there are no speakers on Item 14, and so this public hearing is  
12 concluded on the Constant Yield tax rate. And we'll move on, if Mr. Israel is back? He is.  
13 Good. We will come back, then, to the public hearing on Bill 9-09, Schools and Camps,  
14 and Mr. Israel is here to speak for the Montgomery County Education Association. Good  
15 afternoon. And I don't know if you've had a chance to use these particular mikes before  
16 there, so welcome.

17  
18 TOM ISRAEL:

19 [no audio]

20  
21 COUNCIL PRESIDENT ANDREWS:

22 Um, there is not. And there's not a trapdoor either, contrary to view. When the yellow light  
23 goes on, you'll have 30 seconds left.

24  
25 TOM ISRAEL:

26 Thank you, Mr. Chairman. I apologize. I ran upstairs to get a copy of the bill because I left  
27 it back in my office. But I've given you copies of our testimony. It will be fairly brief. MCEA  
28 appreciates the opportunity to share our thoughts regarding Bill 9-09, which seeks to  
29 establish a grant program in support of those who teach science and mathematics in our  
30 county. While we recognize the good intentions of increasing support for the teaching of  
31 science and mathematics, we have a number of serious concerns which lead us to  
32 oppose this proposal. Specifically, first, it's quite problematic for us for the County to  
33 consider initiating new programs with the money they saved as a result of the  
34 renegotiation of union contracts. Just imagine for a minute what the reaction among  
35 teachers would be if after the County reneges on our cost of living increases but then  
36 unilaterally decides to fund pay raises for some teachers. Timing is everything, as people  
37 often say. So it would create, quite frankly, a firestorm. Secondly, fundamentally the issue  
38 of teacher compensation is a negotiable issue. It should not and cannot be determined by  
39 the County Council. No matter how good the intentions, this would be a unilateral  
40 usurpation of the collective bargaining process. Thirdly, while we have been asked about  
41 this proposal, this initiative basically has been developed with no coordination with either



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1 MCPS or MCEA. Nor does it reflect any understanding of the existing tuition  
2 reimbursement program that MCPS and MCEA already have in place to support the  
3 professional development of teachers. Fourth, the idea of providing salary bonuses to  
4 teachers who teach advanced placement in international baccalaureate courses is  
5 problematic for us, as well. Put bluntly, to pay those who teach "the smart kids" more  
6 money is an affront to the many teachers who work day in and day out teaching our  
7 neediest children. And finally, the proposal to provide salary bonuses to teachers based  
8 on their student test scores is a fundamental problem for our organization, for our  
9 members. I'd be happy to expand on any of these issues in response to your questions.  
10 But in the interest of time, I wanted to keep our testimony brief. Thank you for this  
11 opportunity.

12  
13 COUNCIL PRESIDENT ANDREWS:

14 OK, thank you very much, Mr. Israel. There are no questions. If you have any additional  
15 information you want to submit for the Council's consideration, please do so. OK? All right.  
16 OK. All right, we are now ready to go on to Item 15, which is a public hearing on a  
17 resolution to amend the FY10 transportation fees, charges, and fares. We have 2 speak--  
18 we have, actually, 3 speakers this afternoon. And the hearing will be continued this  
19 evening at 7:30, where we'll hear from some additional speakers. Persons wishing to  
20 submit additional material for the Council's consideration should do so before the close of  
21 business Friday, April 24, 2009. A Transportation, Infrastructure, Energy and Environment  
22 Committee work session is tentatively scheduled for Monday, April 27, 2000 at 9:30 a.m.  
23 Please call 240-777-7900 for information. If you are speaking, before beginning your  
24 presentation please state your name clearly for the record. Press the button. You'll have  
25 up to 3 minutes. When the yellow light goes on, you have 30 seconds left. Red light  
26 means 3 minutes is up. And please stay at the table. There may be questions from  
27 Councilmembers for you or the others at the dais. What the public hearing is about are our  
28 various options that are before the Council for consideration, and the committees--the  
29 T&E Committee will begin its work on this next Monday. And we're glad you're here for the  
30 public hearing. We have 3 speakers signed up. We have Irwin Goldbloom, representing  
31 the Commission on Aging, Cindy Buddington, representing the Commission on People  
32 with Disabilities, and Don Wang, speaking as an individual. And, Mr. Wang, if you are  
33 here, please join us. Come on up to the table, as well. And, Mr. Goldbloom, you are our  
34 first speaker.

35  
36 IRWIN GOLDBLOOM:

37 Thank you, Mr. President and members of the Council. I am Irwin Goldbloom, Chair of the  
38 Commission on Aging. I reside at 2805 Daniel Road in Chevy Chase. I am testifying on  
39 behalf of the Commission to urge the Council to reject the proposal to suspend the free  
40 Ride On Metrobus service for seniors and people with disabilities. We have submitted our  
41 written testimony, and I ask the Council to consider the matters presented therein, since



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1 my allotted time cannot provide a discussion in detail. This proposal represents the  
2 abolition of an important policy established by this Council only in the past 3 years. The  
3 policy recognizes the importance of providing no-cost bus service for seniors so they may  
4 obtain needed medical treatment, access to a host of public and convenient services such  
5 as shopping, and participation in socialization activities. This transportation benefit comes  
6 at a time when many seniors have stopped driving, should not be driving for obvious  
7 reasons, and may not own a vehicle. Users of the public transit system are largely low-  
8 income persons, frequently minority members of the community. A 2004 Ride On survey  
9 tells us that 54% of Ride On users reported an income of less than \$35,000. Over 24%  
10 recorded being of Hispanic descent, 41% of African-American, and 5% Asian. 39% of  
11 Ride On users do not own a vehicle. These considerations overwhelmingly support the  
12 free-fare bus policy of the Council, but there are additional compelling reasons for the  
13 policy. The County Executive and members of this Council and the Commission on Aging  
14 have recognized and promoted the principle of aging in place, a concept designed to  
15 promote care and dignity during retirement years and to counteract many of the difficulties  
16 that impact the senior population. One issue expressed in a recent survey dealt with the  
17 sentiment that retirement in Montgomery County was not a preference due to costs in  
18 transportation issues. The proposal to suspend free bus transportation represents nothing  
19 other than the undermining of a well-considered and important policy objective of the  
20 Council. It amounts to the imposition of a regressive tax on low-income seniors--those  
21 who are least able to bear the burdens of our difficult economic times. Finally, it appears  
22 that the suspension of free rides will, as a fiscal measure, be self-defeating. Eliminating  
23 this service will lead to the use of more expensive and less efficient use of the Metro  
24 access system, thereby offsetting any purported economic benefits. In November, 2008,  
25 the County Executive convened a Senior Summit to deal with important and pressing  
26 issues affecting the senior community. One of the principal concerns of the summit  
27 involved the need of a sound, effective, and usable transportation system to serve the  
28 needs of a growing senior population as a clear recognition of its importance in sustaining  
29 the vibrant community. The proposal to eliminate the free bus service would, if approved,  
30 amount to a tragic turning back of the clock to the detriment of our community. It should  
31 be rejected. Thank you.

32  
33 COUNCIL PRESIDENT ANDREWS:

34 Thank you for your testimony. And if there's additional testimony, we'll be happy to read it.  
35 Our next speaker is Cindy Buddington, representing Commission on People with  
36 Disabilities. Good afternoon.

37  
38 CINDY BUDDINGTON:

39 Good afternoon. My name is Cindy Buddington and I am the Chairperson of the  
40 Commission on People with Disabilities. I want to thank you for the opportunity to share  
41 the Commission's position on the restoration of charging up to 50% for seniors and people



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1 with disabilities on Ride On buses. Council will propose to eliminate free Ride On buses  
2 for seniors and people with disabilities. This will increase revenue by an estimated  
3 \$430,000, and we support that with the condition that the proposed elimination of bus  
4 routes be restored. People across the country are concerned and frustrated regarding  
5 cuts in bus service--bus routes. We fear the same impact on the disability community--  
6 [sneezes] Excuse me--in Montgomery County who depend upon these bus routes not only  
7 to retain their jobs, but to have access to and enjoy the benefits and privileges and  
8 fundamental civil rights of non-disabled citizens of our County. Accordingly, we urge you  
9 not to eliminate these bus routes. The city budget included a \$2.7 million cut in Ride On  
10 services that, as passengers on the many routes that are proposed, seniors and people  
11 with disabilities would be impacted. The Route 53 in particular has some passengers with  
12 disabilities who have spoken out against the elimination. We ask you to seek further  
13 information to the economic impact on Ride On users and consider whether eliminating  
14 bus service would be a violation of Title II of the Americans with Disability Act and other  
15 laws and regulations. Thank you.

16  
17 COUNCIL PRESIDENT ANDREWS:

18 Thank you, Ms. Buddington. And our final speaker on this panel--on this hearing this  
19 afternoon is Mr. Don Wang. And press the button and please introduce yourself, and you  
20 have up to 3 minutes. Thank you.

21  
22 DON WANG:

23 I'm Don Wang. I am representing myself. I am a senior citizen who uses the Ride On bus  
24 on a daily basis. It's bad enough to have a significant number of Ride On routes already  
25 have been eliminated on the weekends in addition to elimination of some bus routes  
26 during the middle, non-rush hour during the work week Monday through Friday. Now there  
27 is plans to require seniors and handicap riders to pay a fare of some amount. My question  
28 is, will senior and handicap payers eliminate or somehow reduce this budget shortage on  
29 the Ride On system? I can appreciate the Council's trying to make ends meet. But will the  
30 nickel or dimes that are coming from our pockets of the senior citizen and the handicap  
31 population close this budget shortfall? However, the free rides that we're currently getting  
32 is absolutely necessary for the seniors and handicap who do not drive, who do not have  
33 friends or neighbors on call to transport us around to our daily living routines. What if we  
34 visit our doctors or other appointments or even to go get our groceries? And I hope the  
35 Council will take heart on the previous 2 testimonies prior to my own and hold the line and  
36 continue to afford the senior and handicap citizens of Montgomery County free rides on  
37 the Ride On system. Thank you very much.

38  
39 COUNCIL PRESIDENT ANDREWS:

40 Thank you very much for your testimony. And Councilmember Leventhal has a question  
41 or comment.



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1  
2 COUNCILMEMBER LEVENTHAL:

3 I just wanted to point out while we're discussing this issue for all of you in the audience  
4 who support and have taken advantage of free rides for seniors and disabled and kids. It's  
5 our Council President Phil Andrews who initiated and has consistently championed this  
6 initiative. It was a Council initiative and it was Phil Andrews' good idea, so I hope we're  
7 able to maintain it. It's a tough budget year, but I did want to give credit where credit was  
8 due. Our Council President has been the leader on this issue for many years.  
9

10 COUNCIL PRESIDENT ANDREWS:

11 Thank you, Councilmember Leventhal. Just on a related note, I believe that in the County  
12 Executive's budget amendments that came over yesterday or last night, he made some  
13 restorations on a couple of the transit routes. And perhaps Glenn Orlin, who is our  
14 transportation expert here at the Council, can just briefly summarize what's in the  
15 amendments package from the County Executive.  
16

17 GLENN ORLIN:

18 Yes, last night the Executive's budget amendments came over. And despite the fact that  
19 he had to make further reductions in his recommendation because of the State cuts, he  
20 did recommend adding back some of the--or reducing the amount of cuts, let's put it that  
21 way, in the Ride On service compared to what he had proposed back on March 15. One  
22 of which was not to eliminate Route 53, so that would be back in. And there were--there's  
23 another route that would be added back--I don't have it in front of me--and a couple other  
24 routes that would be still cut but not cut as much. Furthermore, there are 2 other routes  
25 which have shuttle rates of 35 cents. They would go to a full fare. And the Route 70, which  
26 is the long-distance route from Germantown to Bethesda, would go to a new \$3.00 fare  
27 and \$3.10 for cash, representing the fact that it's a long-distance express service. That's  
28 the sum of his recommendations, which essentially raises--brings back into the budget  
29 about a quarter of the service that he recommended cutting back in March 15. So about  
30 3/4 of the cuts that were made.  
31

32 COUNCIL PRESIDENT ANDREWS:

33 OK, that is helpful. And just going back to the previous point, again, I appreciate  
34 Councilmember Leventhal's nice words about me. Just to be completely accurate in terms  
35 of the history, I proposed the free Ride On service for people with disabilities and seniors  
36 from the midday hours--from 9:00 to 3:30, 9:30 to 3:30 essentially--and that was adopted  
37 about 3 years ago. And then the following year, just after Mr. Leggett was elected, he did  
38 propose--he was the person who proposed expanding it to all hours. So I wanted to just  
39 clarify that. All right, that is--that concludes this public hearing. Appreciate it, your  
40 testimony. We'll continue--actually, we're continuing the public hearing into the evening,  
41 but that concludes this portion of it this afternoon. Thank you for coming out to testify. Our





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1 next public hearing--we do have a couple more--is a resolution--not on the next one, but  
2 on the one after that we do. Yes. This public hearing is a resolution to establish FY10 solid  
3 waste service charges to be effective July 1, 2009. Persons wishing to support additional  
4 material for the Council's consideration should do so before the close of business today,  
5 April 21, 2009. A Transportation, Infrastructure, Energy and Environment Committee work  
6 session is tentatively scheduled for Wednesday, April 22, 2009, at 9:30 a.m. There are no  
7 speakers for this hearing, and so the hearing is concluded. Our next hearing is a public  
8 hearing on a resolution to establish--whoops--yes--the FY10 water quality protection  
9 charge to be effective July 1, 2009. Persons wishing to submit additional material for the  
10 Council's consideration should do so before the close of business today, April 21, 2009. A  
11 Transportation, Infrastructure, Energy and Environment Committee work session is  
12 tentatively scheduled for Wednesday, April 22, 2009, at 9:30 a.m. Before beginning your  
13 presentation, please state your name clearly for the record. We have 5 people signed up  
14 for this hearing and I will call them all up. They are Linc Perry, representing the Whetstone  
15 Homes Corporation, Bob Hydorn, representing the Montgomery Village Foundation, Dana  
16 Minerva, speaking as an individual, Diane Cameron, representing the Audubon Natural  
17 Society, the Natural Resources Defense Council, and Stormwater Partners, and Roxy  
18 Chase, speaking as an individual. And each of you will have up to 3 minutes to speak.  
19 When the yellow light goes on, you have 30 seconds to go. At the beginning of your  
20 presentation, please introduce yourself so those listening in or watching know who you  
21 are. And then please stay at the table until everyone has completed. There may be a  
22 question or two for you. Mr. Perry is our first speaker. LINC PERLEY:  
23 [no audio]

24  
25 COUNCIL PRESIDENT ANDREWS:

26 Oh, your microphone is not on. LINC PERLEY:

27 Sure. Spelling of my last name is P-e-r-l-e-y. Thank you. Good afternoon. My name is Linc  
28 Perley. I'm the president of the Whetstone Homes Corporation and a member of the  
29 Montgomery Village Foundation Board of Directors. Whetstone applauds the County's  
30 efforts to improve water quality, and we support all efforts to protect and improve the  
31 vibrancy of the Chesapeake Bay. We do not object to the water quality protection fee, and  
32 we support--but we support the fair implementation of that fee. We have concerns that I  
33 would like to address. Home corporations assume some of the services normally provided  
34 by the County and bear the cost of those services. There are many homeowners'  
35 associations in the County, specifically in Montgomery Village and Churchill, that own their  
36 own roads. We maintain them, we resurface them, and we plow them. Although these  
37 roads are privately owned, they are publicly used. We also maintain the storm water drain  
38 system and stream valleys in our community, keeping them clean and functioning  
39 properly. These maintenance activities help the County's efforts to improve water quality.  
40 While costing the Whetstone Homes Corporation a significant amount of assessment  
41 dollars, these maintenance tasks would probably have to be curtailed because of the



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1 water quality protection fee. I'll explain that in a minute. For some reason, the County feels  
2 that these homes corporations should pay an additional water quality protection fee  
3 beyond what each homeowner already pays as part of their tax bill. I've read and reread  
4 the regulations for the water quality protection fee, and nowhere does it state that the  
5 homes corporation should pay this fee. When asked why we are being charged, County  
6 representatives state that their lawyers say they can. Shouldn't legislation and subsequent  
7 regulation stand on their own and not require interpretation? Additionally, anytime the  
8 County imposes a fee on a homes corporation directly, it impacts the ability of that homes  
9 corporation to provide services to their community. Why? Unlike the County, the homes  
10 corporation has an assessment ceiling that, when reached, cannot be increased without  
11 2/3 positive vote by the residents. Especially in these economic times, this is very difficult  
12 to attain. Therefore, we are forced to reduced mandated and needed services. We ask  
13 that the County review the imposition of these fees on homes corporations with private  
14 roads and reverse the decision to charge these fees. Thank you.

15  
16 COUNCIL PRESIDENT ANDREWS:

17 Thank you very much for your testimony. Our next speaker is Bob Hydorn.

18  
19 BOB HYDORN:

20 Good afternoon. I'm Bob Hydorn, President of the Montgomery Village Foundation. Thank  
21 you all for allowing us to come down this afternoon. The water quality protection charge,  
22 WQPC, imposes an undue burden on the communities within Montgomery Village. We're  
23 here to ask your assistance in mitigating that burden. We've talked with you when we met  
24 in Montgomery Village recently. The terms set forth in Executive Regulation 6-02, Water  
25 Quality Protection Charge, do not make reference to charging homeowner associations  
26 under the associated nonresidential property calculation that we are being charged.  
27 Rather than interpreting the regulation silence to mean that our property--our privately  
28 owned but publicly used roads are not to be included in the fee, the opposite has  
29 occurred. The County has chosen to interpret that silence to mean that it is acceptable to  
30 charge us for our roads. It is not. We believe our privately owned but heavily publicly used  
31 streets should be exempted from the water quality protection charge calculation, just as  
32 streets in municipalities are exempted from this charge. Our roads are just like those in  
33 any municipality--the public has full use of them at all times, yet we must maintain them  
34 ourselves. We also find inequitable that the water quality protection charge does not bring  
35 commercial properties into the calculation unless they drain into a residential storm water  
36 facility. Homeowner associations, as you just heard from Mr. Perley, cannot automatically  
37 increase the budgets. They're limited to assessment ceilings. Raising an assessment  
38 ceiling requires a 2/3 vote of the residents of an association, and that also includes  
39 Montgomery Village Foundation. It is also--almost impossible to get the necessary votes  
40 to increase such an assessment ceiling. In these cases, the Boards, including the  
41 Foundation, are then forced to reduce services to our residents. Adding yet another line to



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1 an association's budget to cover expenses associated with runoff from roads used by the  
2 general public is like double taxation. The rapid escalation of the water quality is  
3 destroying the homeowners' association budgets. We ask for your assistance. We need it  
4 desperately. Thank you.

5  
6 COUNCIL PRESIDENT ANDREWS:

7 Thank you, Mr. Hydorn. Our next speaker is Dana Minerva.

8  
9 DANA MINERVA:

10 Thank you, Mr. President...

11  
12 COUNCIL PRESIDENT ANDREWS:

13 It's not on.

14  
15 DANA MINERVA:

16 Thank you. Good afternoon. I am Dana Minerva of the Anacostia Watershed Restoration  
17 Partnership, and today I am testifying in support of the investment in the restoration of  
18 Montgomery County streams and creeks. I speak on behalf of the Partnership Citizens  
19 Advisory Council, a group of watershed stewardship groups who work to restore their local  
20 streams and creeks in the Anacostia watershed in Montgomery County. These include the  
21 Friends of Sligo Creek, the Neighbors of Northwest Branch, and the Eyes of Paint Branch  
22 among others. The USGS in a study of the hydrology of the Anacostia watershed,  
23 including that portion in Montgomery County, has concluded that the watershed has 10  
24 times the sediments of any other tributary to the Chesapeake Bay that they have studied.  
25 These sediments come primarily from stream bank erosion that result from heavy flows of  
26 storm water. The eroded sediments and other pollutants such as bacteria, trash, and  
27 nutrients wash into the Paint Branch, Sligo Creek, and Northwest Branch and other  
28 Anacostia sub-watersheds in Montgomery County. The condition of these streams  
29 prompted the Maryland Department of the Environment to direct the County to retrofit a  
30 total of 30% of its impervious surfaces for storm water controls. Anacostia streams and  
31 creeks are a valuable county asset. They are centerpieces of your parks, and they are  
32 important recreational resources for adults and children alike. There's growing evidence  
33 that playing and exploring outdoors is very important to children's mental and physical  
34 health, and that kids today don't have the opportunities that we had as children. We must  
35 keep the places that are available for kids clean and safe. Completely aside from the  
36 benefits to the environment and to people--and to people of cleaning storm water  
37 pollution, there is growing evidence that to do so will save taxpayers money in the long  
38 run. Montgomery County has spent millions of dollars stabilizing its stream banks and will  
39 continue to do so until storm water has controlled. As others testify, storm water is--will  
40 testify, storm waters is also costing WSSC ratepayers over \$45 million a year--the cost of  
41 repairing sewer lines that had been broken by storm water. And I might add that when



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1 these sewer lines break, they also spill sewage into our watershed. If the County kept  
2 records of the cost to taxpayers of repairing roads and culverts damaged by storm water,  
3 these numbers would probably climb higher. In addition, Montgomery County must comply  
4 with MDE's permit requirements or face increasingly Draconian permit conditions and  
5 possibly fines. Additionally, it would be bad business to continue to allow the County's  
6 beautiful parks to erode away, literally and figuratively, without making the investments  
7 needed to stem the damage. In short, adopting what is only a slightly higher storm water  
8 fee will help stop the treadmill of scrambling to pay for damage rather than preventing it.  
9 Thank you very much.

10  
11 COUNCIL PRESIDENT ANDREWS:

12 Thank you very much. Our next speaker is Diane Cameron.

13  
14 DIANE CAMERON:

15 My name is Diane Cameron, and I'm here to represent the Audubon Naturalist Society  
16 and the Natural Resources Defense Council to support the proposed water quality  
17 protection charge rate for fiscal year 2010. I also serve as the coordinator of the  
18 Montgomery County Stormwater Partners Network, a network of 22 organizations  
19 concerned with protecting and restoring the health of our waters in Montgomery County.  
20 Also today, the Natural Resources Defense Council, Nancy Stoner for NRDC, Friends of  
21 Sligo Creek, Upcounty Action, and the West Montgomery County Citizens Association  
22 have also endorsed this testimony. We support the proposed water quality protection  
23 charge of \$45.50 per year per 2,400 square feet of impervious area. We strongly support  
24 this proposed rate because it is an incremental increase. And it is still quite a modest fee  
25 for such a crucial program to protect and restore our waters and to ratchet down on the  
26 storm water pollution that's been ravaging our streams. In addition, the green  
27 infrastructure approach-- including green roofs, rain gardens, and similar techniques--that  
28 is supported and helped to be funded through this charge will also help to raise property  
29 values and to create green jobs. Through the greening of our neighborhoods and through  
30 the restoration of our streams, Montgomery County has already begun to implement a  
31 new, stepped-up storm water permit under the Clean Water Act that includes a  
32 requirement that we support to restore an additional 20% of previously uncontrolled,  
33 impervious, hard surfaces in Montgomery County. And these impervious acres are in the  
34 Anacostia, Lower Rock Creek, Cabin John, and even parts of Lower Seneca. And these  
35 previously uncontrolled areas, as other speakers have noted, will carry a big price tag in  
36 the--in the slow destruction of our water and sewer infrastructure. Even some of our  
37 properties that abut the streams are being eroded away. And also our other private  
38 properties and land values and transportation infrastructure are being impacted by the  
39 uncontrolled storm water. So this is a permit requirement. County Executive Leggett and  
40 DEP Director Hoyt are already moving to implement this new clean water act permit  
41 requirement, and this is the funding that we need as--at least as a very robust baseline for



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1 implementing this permit, and we strongly support this. A couple of examples--or, one  
2 example is WSSC estimates it will cost \$45 million to--or up to 45 million to repair the  
3 eroded sewer pipes in our streams. Thank you.

4  
5 COUNCIL PRESIDENT ANDREWS:

6 Thank you for your testimony. And our final speaker on this measure is Ms. Roxy Chase.

7  
8 ROXY CHASE:

9 Hello. I don't live in the past, but I can remember the Bay when you could see the  
10 phosphorous in the water and the stars and the path of the moon and fish for lobsters--for  
11 things from the bridge. OK, I would like to see some of that brought back. But as far as the  
12 water prices, now, to clean it up--see, people saved my home this year, some of them  
13 sitting in this room, and I used to sell real estate in Bethesda. And I always thought the  
14 hardest part was asking them how much money they made, but I told them what the  
15 interest rate was, the taxes, etcetera. And I'm proud to say no one lost a home because of  
16 me. Seriously. But my second husband was a batterer, and I removed myself from Victory  
17 Lane in Potomac with my 2 children. I left everything because I got tired of being hit. I  
18 looked like Nicole Simpson from being battered. I've had a gun pointed in my face, which  
19 was loaded, and so was the father of my child, so I moved out. But a lot of the treasures  
20 have gone, but my mind has returned. And there's this thing--I wonder where all the  
21 flowers have gone. See, and I think a lot of--and I ride a bus, and I mean to tell you this is  
22 really messed up. Because I stood for--I time myself when I leave my condo, hanging on  
23 the railing. It was a long time coming, and I had to get off and get on another one. And I  
24 have a little emphysema, see. That I did to myself by smoking. But I was a golfer and I  
25 loved every single minute of it. Yes, I did, believe me. And my first husband was a civil  
26 engineer, he went to Catholic "U," and it took me 5 years to conceive his son. And I said,  
27 "If you think I'm sitting home and watching soap operas, you're crazier than hell." And I  
28 learned how to play golf, and I had a 5 handicap. I left my clubs and all of--and Sam  
29 Snead fit my clubs to specification at The Greenbrier. Yes. But it's a different world for me  
30 now. Because that brought me down to a level--I live on 7,500 a year. Tell me your  
31 troubles, you all.

32  
33 COUNCIL PRESIDENT ANDREWS:

34 Thank you, Ms. Chase.

35  
36 ROXY CHASE:

37 Yeah.

38  
39 COUNCIL PRESIDENT ANDREWS:

40 I want to acknowledge that Senator Raskin was here with us. I think he just stepped out  
41 for a minute. He may be coming back. Appreciate all the good work that Senator Jamie



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1 Raskin has done for the County in Annapolis, and if we see him again we'll say it to his  
2 face. We're glad that you all came out this afternoon for this hearing. There are some  
3 questions. Councilmember Floreen?

4  
5 COUNCILMEMBER FLOREEN:

6 Thank you. Well, let's hope Senator Raskin brought us a nice big check from Annapolis.  
7 Based on the reports, I don't think so. HA HA HA! You hear that, Jamie? I wanted to let  
8 you all know that we're taking this up in Committee tomorrow morning 9:30 in the  
9 conference room behind us. And there's a staff packet available--now? Do we have that,  
10 Keith? That you can make available to them. Keith, when we take it up, I would like you to  
11 bring us the language that authorizes the charge and also the regulation language that--  
12 from which we deduce the math that applies the storm water quality charge to the roads  
13 and understand how it works with homeowners' association. So if you can be prepared to  
14 take us through the analysis that gets us there. I know this has been a source of some  
15 concern, yet you can't be the only folks who have this issue. But as Ms. Cameron points  
16 out and others, we have a big problem we need to address collectively, as well. So that's  
17 part of the challenge--we're all struggling these days. But I would like to see--I see in your  
18 packet that you have not--you don't have all that exact information, and I think it'd be  
19 worth a little bit of time. OK, thanks. So 9:30 tomorrow morning, if you care.

20  
21 COUNCIL PRESIDENT ANDREWS:

22 Thank you, Chair Floreen. Councilmember Knapp?

23  
24 COUNCILMEMBER KNAPP:

25 Thank you, Mr. President. I just want to thank the Chair for her comments. The question I  
26 had is while we can address the rate piece as to what actually gets charged, can we  
27 actually address the interpretation in what the Committee's going to take up tomorrow? Is  
28 that something that can occur there? So maybe you'll do it--I don't know. Where do we  
29 stand to look of the addressed????

30  
31 KEITH LEVCHENKO:

32 Well, I think, speaking--I don't want to speak for the Executive, but I know the Executive's  
33 looking at this language. And we are expecting a comprehensive review of this--of the  
34 entire piece of the code that deals with the water quality protection charge, not just this  
35 particular issue. It's about 8 years old now, so there are some lessons they've learned  
36 over the years in areas they want to perhaps correct or modify in different ways, and we'll  
37 have to deal with that when we get it. I think there would be some concern if we were to  
38 take this out of context and do just this piece at once, and I do mention that in the packet  
39 that's going to the Committee tomorrow.

40  
41 COUNCILMEMBER KNAPP:



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1 That was my only concern, is just to make sure-- it would seem to me that we would  
2 probably address the specific issue that's been raised from a rate perspective to make  
3 sure that we address the Village's concern and other similarly affected communities. But  
4 then we still have the broader issue of the regulation, and I just wanted to make sure--OK,  
5 thank you.

6  
7 COUNCIL PRESIDENT ANDREWS:

8 Thank you, Councilmember Knapp. Council Vice President Berliner?

9  
10 COUNCIL VICE PRESIDENT BERLINER:

11 We can get into this more. Ms. Cameron, did you have a view on Montgomery Village's  
12 perspective with respect to this?

13  
14 DIANE CAMERON:

15 [no audio]

16  
17 COUNCIL VICE PRESIDENT BERLINER:

18 You want to push your button?

19  
20 DIANE CAMERON:

21 I would like to have an opportunity to learn more about the Montgomery Village concerns.  
22 I've read about them in the paper, and my--our basic view of this charge overall is that--  
23 that it's not a tax. It's a utility fee because it's a fee for service, and the service is storm  
24 water management, storm water pollution prevention throughout the county. And so  
25 because of viewing it in that way and it's a charge for service, that all sectors--in our view,  
26 all sectors should pay into it, and that incl--I think that should include Montgomery Village,  
27 and they should pay their fair share. That's just my--that's my preliminary view without--I  
28 haven't analyzed it in depth.

29  
30 COUNCIL VICE PRESIDENT BERLINER:

31 Between now and tomorrow, you guys might have an opportunity to talk so that you can  
32 be informed with respect to their perspective on it, which isn't to say you will change your  
33 own. But I do think it is important that, if you will, the three of you have that dialogue  
34 before tomorrow morning, if possible. You can.

35  
36 BOB HYDORN:

37 Yeah, we're not in any way opposed to the overall fee, it's just how it's processed. We  
38 actually met with the Council in Montgomery Village, and one of the topics that came up  
39 was the homes corporations can't raise the assessments. Is there possibly a way that that  
40 percentage could be added to the individual properties? So we still want to participate and



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1 want--we've got lakes. We want them clean as possible, as everyone does. We want the  
2 Bay clean, so we're all on the same page on that. It's just there's certain aspects--

3  
4 COUNCIL VICE PRESIDENT BERLINER:

5 It's the mechanism, not whether you will, in fact, participate?

6  
7 BOB HYDORN:

8 Exactly.

9  
10 COUNCIL VICE PRESIDENT BERLINER:

11 Let's assume for purposes of this conversation that we're talking about a dollar. You're  
12 willing to pay the dollar, but not in this particular way?

13  
14 BOB HYDORN:

15 Not in that format.

16  
17 COUNCIL VICE PRESIDENT BERLINER:

18 OK.

19  
20 BOB HYDORN:

21 As I mentioned in my testimony, some of the--you know, you take some of the  
22 municipalities. They are not paying...

23  
24 COUNCIL VICE PRESIDENT BERLINER:

25 In that manner?

26  
27 BOB HYDORN:

28 In that manner. It's all put on to the residents.

29  
30 COUNCIL VICE PRESIDENT BERLINER:

31 We do have a work session tomorrow, but--and we will take it up in committees. I don't  
32 mean to belabor this at this moment.

33  
34 COUNCIL PRESIDENT ANDREWS:

35 Thank you, Council Vice President Berliner. Councilmember Leventhal?

36  
37 COUNCILMEMBER LEVENTHAL:

38 I don't want to belabor it either, but obviously Keith has listened to the conversation, and I  
39 hope we can talk to our attorneys. Because the question would be whether the restriction  
40 on passing through the fee to the homeowners is a State law restriction, County law  
41 restriction, homeowner contract restriction. That's what I'm not understanding here. If it's



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1 something we could fix in County law, it sounds like there'd be a lot of sympathy for doing  
2 that. But if it isn't in County law, and many homeowners' association rules are not  
3 governed by County law, then we may not have the power to do it. Or since Senator  
4 Raskin's not here, maybe it's something State law can do. Yeah.

5  
6 BOB HYDORN:

7 Uh--

8  
9 COUNCILMEMBER LEVENTHAL:

10 Turn on your microphone, Bob.

11  
12 BOB HYDORN:

13 I'm sorry. You may have a head start on that in contacting Mr. Hoyt and his office.  
14 Because in addition wherein he was out to speak with us, and he has the same  
15 information and they were looking into that, as well.

16  
17 COUNCILMEMBER LEVENTHAL:

18 And he'll be with us tomorrow. LINC PERLEY:

19 Let me clarify something.

20  
21 COUNCIL PRESIDENT ANDREWS:

22 It was on. There you go. LINC PERLEY:

23 This does not affect all homes corporations. This only affects homes corporations that  
24 have private roads. We do participate, and our homeowners in Whetstone and  
25 Montgomery Village do pay the fee for their individual homes. What the County wants to  
26 charge us for and has charged us for in the past is our own roads, the impervious surface  
27 at our own roads. And just because we own them, we're no different than a homeowners'  
28 corporation that has public roads. Like I said before, we surface them, we--Don't get  
29 confused between all--don't think that all homes corporations pay this fee. It's only us--  
30 only privately owned streets.

31  
32 COUNCIL PRESIDENT ANDREWS:

33 OK, all right, thank you all. Well, that concludes this here, and we have one more. One  
34 more. We're almost there--thank you all--and that is Item 18, which is a public hearing on  
35 a supplemental appropriation to the County government's FY09 capital budget for the  
36 Department of Transportation. 2.6 million for the following projects--resurfacing rural  
37 residential roads, \$1,058,400, resurfacing primary arterial roads, \$1,344,480, and rural  
38 and residential road rehabilitation, \$197,120. Action is scheduled immediately following  
39 this hearing. There are no speakers for this hearing, so the public hearing is concluded.  
40 And we have a Committee recommendation, and then I know that Dr. Orlin has a  
41 comment in his packet, as well, or a comment to make. So, first, let me turn to the



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1 Committee Chair, and then--not this one? Yes, OK. Let me turn to the Committee Chair  
2 first--Councilmember Floreen.

3  
4 COUNCILMEMBER FLOREEN:

5 The Committee supports the expenditure. Actually, the Committee supports the  
6 appropriation as requested by the County Executive. We did not support Mr. Orlin's  
7 recommendation that we delay the approval until a CIP reconciliation. So the Committee's  
8 recommendation is to appropriate 1,058,400 for resurfacing rural residential roads,  
9 1.344480 for primary arterials, and 197,120 for rural and residential road rehabilitation.

10  
11 COUNCIL PRESIDENT ANDREWS:

12 OK. Now, let me just ask one question, and that is my understanding of the concern of  
13 staff was where the money is shown in the year. And my understanding is it doesn't affect  
14 when the work is done but where the money is shown. Whether it's fiscal year '09 or fiscal  
15 year '10, which I'm, uh, channeling Mr. Orlin, I guess, at this point. So that's--the issue is  
16 not whether the work gets done but whether we know where the money could be shown at  
17 this point. And there may be a possibility to show it in FY10 rather than FY09, depending  
18 on how things develop during the budget. I'll ask Mr. Orlin if that's accurate.

19  
20 GLENN ORLIN:

21 Almost. The--if it's approved now, the Department will be able to do the work in May or  
22 June. If it's delayed and the decision's made in May 14 or right about then, the work--  
23 depending on the result of reconciliation, the work will either be done in June. Or if we  
24 decide to do the work in FY10 instead, it'll be done July, maybe early August. It would be  
25 done in the summer, but it would make a difference of about a month, month and a half.  
26 It'll happen. One way or another, it'll happen...

27  
28 COUNCIL PRESIDENT ANDREWS:

29 OK, so the Committee recommendation is to approve it.

30  
31 COUNCILMEMBER FLOREEN:

32 To just do it.

33  
34 COUNCIL PRESIDENT ANDREWS:

35 To do it. Just do it now. Do it now? OK, are there any comments on this? No. All right. All  
36 those--all those in favor of the Committee recommendation, please raise your hand. And  
37 that is Councilmember Elrich, Councilmember Floreen, myself, Council Vice President  
38 Berliner, Councilmember Knapp, Councilmember Ervin, Councilmember Leventhal. That  
39 is 7-0, and that is approved for action now. And one other item. Councilmember Knapp?

40  
41 COUNCILMEMBER KNAPP:

April 21, 2009



1 Mr. President, I just was out of the room when we voted on Item 10, resolution to approve  
2 policy for use of brick favors in public right-of-away. I just wanted to have my vote  
3 recorded in the affirmative.

4  
5 COUNCIL PRESIDENT ANDREWS:  
6 All right, so noted. And the committees are--2 committees have meetings now. The Fed  
7 Committee is upstairs, and the MFP Committee is in the third-floor conference room.  
8